

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2520

To enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, to reduce paperwork and additional regulatory burdens for depository institutions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 1995

Mr. LEACH introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, to reduce paperwork and additional regulatory burdens for depository institutions, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Financial Services Competitiveness and Regulatory Re-  
4 lief Act of 1995”.

5 (b) TABLE OF CONTENTS.—The table of contents of  
6 this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—BANK SECURITIES ACTIVITIES AND AFFILIATIONS  
WITH SECURITIES FIRMS AND OTHER FINANCIAL COMPANIES

Subtitle A—Securities Activities

- Sec. 101. Anti-affiliation provision of the Banking Act of 1933 repealed.
- Sec. 102. Financial services holding companies authorized to have securities affiliates.
- Sec. 103. Establishment and operations of securities affiliates.
- Sec. 104. Safeguards relating to securities affiliates.
- Sec. 105. Ownership of shares of certain companies by financial services holding companies.
- Sec. 106. Provisions applicable to limited purpose banks.
- Sec. 107. Securities company affiliations of FDIC—insured banks.
- Sec. 108. Authority to terminate grandfather rights under the International Banking Act of 1978.
- Sec. 109. Effect on State laws prohibiting the affiliation of banks and securities companies.
- Sec. 110. Interagency agreement relating to retail sales of certain nondeposit investment products.
- Sec. 111. Effective date.

Subtitle B—Investment Bank Holding Companies

- Sec. 116. Investment bank holding companies.
- Sec. 117. Wholesale financial institutions.

Subtitle C—Financial Activities

- Sec. 121. Financial activities.
- Sec. 122. No prior approval required for well capitalized and well managed financial services holding companies.
- Sec. 123. Streamlined examination and reporting requirements for all financial services holding companies.
- Sec. 124. Holding company supervision for financial services holding companies engaged primarily in nonbanking activities.
- Sec. 125. Conversion of unitary savings and loan holding companies to financial services holding companies.
- Sec. 126. Financial services advisory committee.
- Sec. 127. Coordination with State law.
- Sec. 129. Conforming amendments to the Bank Holding Company Act Amendments of 1970.

- Sec. 130. Credit cards for business purposes.
- Sec. 131. Disposition of foreclosed assets.

Subtitle D—Interagency Banking and Financial Services Advisory Committee

- Sec. 141. Interagency banking and financial services advisory committee.

Subtitle E—Application and Registration Fees

- Sec. 151. Authority to impose fees.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

- Sec. 201. Definition of broker.
- Sec. 202. Definition of dealer.
- Sec. 203. Power to exempt from the definitions of broker and dealer.
- Sec. 204. Margin requirements.
- Sec. 205. Effective date.

Subtitle B—Bank Investment Company Activities

- Sec. 211. Custody of investment company assets by affiliated bank.
- Sec. 212. Use of underwriting proceeds.
- Sec. 213. Lending to an affiliated investment company.
- Sec. 214. Independent directors.
- Sec. 215. Additional SEC disclosure authority.
- Sec. 216. Definition of broker under the Investment Company Act of 1940.
- Sec. 217. Definition of dealer under the Investment Company Act of 1940.
- Sec. 218. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
- Sec. 219. Definition of broker under the Investment Advisers Act of 1940.
- Sec. 220. Definition of dealer under the Investment Advisers Act of 1940.
- Sec. 221. Interagency consultation.
- Sec. 222. Treatment of bank common trust funds.
- Sec. 223. Investment advisers prohibited from having controlling interest in registered investment company.
- Sec. 224. Conforming change in definition.
- Sec. 225. Effective date.

TITLE III—BANK INSURANCE ACTIVITIES

- Sec. 301. Authority of the Comptroller of the Currency.
- Sec. 302. National bank community development insurance activities.

TITLE IV—REDUCTIONS IN GOVERNMENT OVERREGULATION

Subtitle A—The Home Mortgage Process

- Sec. 401. Regulatory authority over disclosures and escrow accounts under RESPA transferred to Federal Reserve Board.
- Sec. 402. Simplification and unification of disclosures required under RESPA and TILA for mortgage transactions.
- Sec. 403. Increased regulatory flexibility under the Truth in Lending Act.
- Sec. 404. Reductions in RESPA regulatory burdens; clarifying amendments.
- Sec. 405. Disclosures for adjustable rate mortgages.

- Sec. 406. Treatment of certain debt cancellation and deficiency waiver contracts.
- Sec. 407. Recovery of fees.
- Sec. 408. Home ownership debt counseling notification.
- Sec. 409. Home Mortgage Disclosure Act.

#### Subtitle B—Community Reinvestment Act Amendments

- Sec. 421. Expression of congressional intent.
- Sec. 422. Increased incentives for lending to low- and moderate-income communities.
- Sec. 423. Prohibition on additional reporting under CRA.
- Sec. 424. Technical amendment.
- Sec. 425. CRA congressional oversight.
- Sec. 426. Consultation among examiners.
- Sec. 427. Limitation on regulations.

#### Subtitle C—Consumer Banking Reforms

- Sec. 441. Truth in savings.
- Sec. 442. Information sharing.
- Sec. 443. Electronic Fund Transfer Act clarification.
- Sec. 444. Limit on restitution for truth in lending violations if safety and soundness of violator would be affected.

#### Subtitle D—Equal Credit Opportunity Act Amendments

- Sec. 451. Short title.
- Sec. 452. Findings and purpose.
- Sec. 453. Equal Credit Opportunity Act amendments.
- Sec. 454. Fair Credit Reporting Act amendments.
- Sec. 455. Incentives for self-testing.
- Sec. 456. Consultation by Attorney General required in nonreferral cases.
- Sec. 457. Effective date.

#### Subtitle E—Consumer Leasing Act Amendments

- Sec. 461. Short title.
- Sec. 462. Congressional findings and declaration of purpose.
- Sec. 463. Regulations.
- Sec. 464. Consumer lease advertising.
- Sec. 465. Statutory penalties.

### TITLE V—STREAMLINING GOVERNMENT REGULATIONS

#### Subtitle A—Regulatory Approval Issues

- Sec. 501. Streamlined bank acquisitions by well capitalized and well managed banking organizations.
- Sec. 502. Eliminate filing and approval requirements for insured depository institutions already controlled by the same holding company.
- Sec. 503. Eliminate redundant approval requirement for Oakar transactions.
- Sec. 504. Elimination of duplicative requirements imposed upon financial services holding companies and other regulatory relief under the Home Owners' Loan Act.
- Sec. 505. Eliminate requirement that approval be obtained for divestitures.
- Sec. 506. Eliminate unnecessary branch applications.

- Sec. 507. Eliminate branch applications and requirements for ATMs and similar facilities.
- Sec. 508. Eliminate requirement for approval of investments in bank premises for well capitalized and well managed banks.
- Sec. 509. Eliminate unnecessary filing for officer and director appointments.
- Sec. 510. Increase in certain credit union loan ceilings.

Subtitle B—Streamlining of Government Regulations; Miscellaneous Provisions

- Sec. 521. Eliminate the per-branch capital requirement for national banks and State member banks.
- Sec. 522. Branch closures.
- Sec. 523. Amendments to the Depository Institutions Management Interlocks Act.
- Sec. 524. Acceleration of repayment to Treasury.
- Sec. 525. Eliminate unnecessary and duplicative recordkeeping and reporting requirements relating to loans to executive officers and permit participation in employee benefit plans.
- Sec. 526. Expanded regulatory discretion for small bank examinations.
- Sec. 527. Cost reimbursement.
- Sec. 528. Identification of foreign nonbank financial institution customers.
- Sec. 529. Paperwork reduction review.
- Sec. 530. Daily confirmations for hold-in-custody repurchase transactions.
- Sec. 531. Required regulatory review of regulations.
- Sec. 532. Country risk requirements.
- Sec. 533. Audit costs.
- Sec. 534. Standards for director and officer liability.
- Sec. 535. Foreign bank applications.
- Sec. 536. Duplicate examination of foreign banks.
- Sec. 537. Second mortgages.
- Sec. 538. Streamlining FDIC approval of new State bank powers.
- Sec. 539. Repeal of call report attestation requirement.
- Sec. 540. Authorizing bank service companies to organize as limited liability partnerships.
- Sec. 541. Bank investments in Edge Act and agreement corporations.
- Sec. 542. Report on the reconciliation of differences between regulatory accounting principles and generally accepted accounting principles.
- Sec. 543. Waivers authorized for residency requirement for national bank directors.

TITLE VI—LENDER LIABILITY

- Sec. 601. Lender liability.

TITLE VII—ANNUAL STUDY AND REPORT ON IMPACT ON  
LENDING TO SMALL BUSINESS

- Sec. 701. Annual study and report.

1 **TITLE I—BANK SECURITIES AC-**  
2 **TIVITIES AND AFFILIATIONS**  
3 **WITH SECURITIES FIRMS AND**  
4 **OTHER FINANCIAL COMPA-**  
5 **NIES**

6 **Subtitle A—Securities Activities**

7 **SEC. 101. ANTI-AFFILIATION PROVISION OF THE BANKING**  
8 **ACT OF 1933 REPEALED.**

9 (a) SECTION 20 REPEALED.—Section 20 (12 U.S.C.  
10 377) of the Banking Act of 1933 (commonly referred to  
11 as the “Glass-Steagall Act”) is repealed.

12 (b) CONFORMING AMENDMENT TO SECTION 32.—  
13 Section 32 (12 U.S.C. 78) of the Banking Act of 1933  
14 is amended by adding at the end the following sentence:  
15 “This section shall not apply so as to prohibit an officer,  
16 director, or employee of a securities affiliate (as defined  
17 in section 2 of the Financial Services Company Act of  
18 1995) from serving at the same time as an officer, direc-  
19 tor, or employee of a member bank affiliated with that  
20 securities affiliate pursuant to section 10 of such Act. This  
21 section shall not apply so as to prohibit an officer, direc-  
22 tor, or employee of an investment company registered  
23 under the Investment Company Act of 1940 or an invest-  
24 ment adviser registered under the Investment Advisers

1 Act of 1940 from serving at the same time as an officer,  
2 director, or employee of a member bank.”.

3 **SEC. 102. FINANCIAL SERVICES HOLDING COMPANIES AU-**  
4 **THORIZED TO HAVE SECURITIES AFFILIATES.**

5 Section 4(c) of the Bank Holding Company Act of  
6 1956 (12 U.S.C. 1843(c)) is amended—

7 (1) by striking “or” at the end of paragraph  
8 (13);

9 (2) by striking the period at the end of para-  
10 graph (14) and inserting “; or”; and

11 (3) by adding after paragraph (14) the follow-  
12 ing new paragraph:

13 “(15) shares of a securities affiliate in accord-  
14 ance with section 10.”.

15 **SEC. 103. ESTABLISHMENT AND OPERATIONS OF SECURI-**  
16 **TIES AFFILIATES.**

17 (a) IN GENERAL.—Section 10 of the Bank Holding  
18 Company Act of 1956 (12 U.S.C. 1841 et seq.) is amend-  
19 ed to read as follows:

20 **“SEC. 10. SECURITIES ACTIVITIES.**

21 **“(a) ACTIVITIES PERMISSIBLE FOR SECURITIES AF-**  
22 **FILIATES.—**

23 **“(1) IN GENERAL.—A securities affiliate may**  
24 **engage in 1 or more of the following activities:**

1           “(A) Underwrite, deal in, broker, place, or  
2           distribute securities of any type, provide invest-  
3           ment advice regarding securities of any type,  
4           and engage in other securities activities.

5           “(B) Sponsor, organize, control, manage,  
6           and act as investment adviser to an investment  
7           company.

8           “(C) Engage in, or acquire the shares of a  
9           company engaged in, any activity if—

10           “(i) a provision of section 4(c) permits  
11           financial services holding companies gen-  
12           erally to engage in that activity or acquire  
13           those shares; and

14           “(ii) either—

15           “(I) the Board permits the finan-  
16           cial services holding company to en-  
17           gage in that activity or acquire those  
18           shares through the securities affiliate;  
19           or

20           “(II) a provision of section 4(c)  
21           permits the financial services holding  
22           company to engage in such activity or  
23           acquire such shares without the  
24           Board’s approval.



1           “(2) FACTOR TO BE CONSIDERED.—In making  
2       determinations pursuant to this section, the Board  
3       shall take into account the need for securities firms  
4       affiliated with banks to be innovative and competi-  
5       tive.

6       “(b) ACQUIRING INTEREST IN SECURITIES AFFILI-  
7       ATE.—

8           “(1) NOTICE REQUIRED.—A financial services  
9       holding company shall not, without complying with  
10      and receiving approval pursuant to the notice proce-  
11      dure in section 4(j)(1), directly or indirectly acquire  
12      or retain more than 5 percent of the voting shares  
13      of, or all or substantially all of the assets of, a secu-  
14      rities affiliate (or a company that would be a securi-  
15      ties affiliate if the Board permitted the financial  
16      services holding company to acquire that company).

17       “(2) CRITERIA FOR APPROVAL.—The Board  
18      shall disapprove a notice required under paragraph  
19      (1) unless the Board determines that the require-  
20      ments of the following subparagraphs have been  
21      met:

22           “(A) CAPITAL.—

23           “(i) DEPOSITORY INSTITUTIONS.—

1           “(I) The lead depository institu-  
2           tion of the financial services holding  
3           company is well capitalized.

4           “(II) Well capitalized depository  
5           institutions control at least 80 percent  
6           of the aggregate total risk-weighted  
7           assets of depository institutions con-  
8           trolled by the financial services hold-  
9           ing company.

10           “(III) All depository institutions  
11           controlled by the financial services  
12           holding company are well capitalized  
13           or adequately capitalized.

14           “(ii) RECENTLY ACQUIRED DEPOSI-  
15           TORY INSTITUTIONS.—Depository institu-  
16           tions acquired by a financial services hold-  
17           ing company during the 12-month period  
18           preceding the submission of a notice under  
19           paragraph (1) may be excluded for pur-  
20           poses of clause (i)(II) if—

21           “(I) the financial services holding  
22           company has submitted a plan to the  
23           appropriate Federal banking agency  
24           to restore the capital of the institution

1 and the plan has been accepted by  
2 such agency; and

3 “(II) all such institutions that  
4 are excluded for the purposes of  
5 clause (i)(II) represent, in the aggregate,  
6 less than 25 percent of the aggregate  
7 total risk-weighted assets of  
8 all depository institutions controlled  
9 by the financial services holding company.  
10

11 “(iii) FINANCIAL SERVICES HOLDING  
12 COMPANY.—The financial services holding  
13 company is (and immediately after the acquisition  
14 of a securities affiliate would continue to be)  
15 adequately capitalized under the capital standards  
16 applicable, if any, to such financial services holding  
17 company.

18 “(iv) FOREIGN BANKS AND COMPANIES.—For purposes  
19 of applying this subsection and other provisions  
20 of this section, the Board shall establish and apply  
21 comparable capital standards for the acquisition,  
22 retention, and operation of a securities affiliate  
23 in the United States by a foreign bank that operates  
24 a branch or agent  
25

1           cy or owns or controls a bank or commer-  
2           cial lending company in the United States,  
3           and any company that owns or controls  
4           such a foreign bank, giving due regard to  
5           the principle of national treatment and  
6           equality of competitive opportunity.

7           “(B) ALTERNATIVE CAPITAL TREATMENT  
8           FOR WELL CAPITALIZED FINANCIAL SERVICES  
9           HOLDING COMPANIES.—

10           “(i) IN GENERAL.—A financial serv-  
11           ices holding company and the depository  
12           institution subsidiaries of such company  
13           shall be deemed to have met the capital re-  
14           quirements set forth in subparagraph (A)  
15           if—

16           “(I) the holding company files a  
17           written notice with the Board of such  
18           company’s election to meet such cap-  
19           ital requirements in the manner pro-  
20           vided in this subparagraph;

21           “(II) all depository institutions  
22           controlled by the financial services  
23           holding company are at least ade-  
24           quately capitalized; and

1           “(III) the financial services hold-  
2           ing company is (and immediately after  
3           the acquisition of a securities affiliate  
4           would continue to be) well capitalized.

5           “(ii) LOSSES INCURRED BY FDIC.—A  
6           financial services holding company which  
7           makes an election under clause (i) in con-  
8           nection with the acquisition of control of  
9           any securities affiliate shall be liable for  
10          any loss incurred by the Federal Deposit  
11          Insurance Corporation, or any loss which  
12          the Federal Deposit Insurance Corporation  
13          reasonably anticipates incurring in connec-  
14          tion with—

15               “(I) the default of any insured  
16               depository institution controlled by  
17               the financial services holding com-  
18               pany; or

19               “(II) any assistance provided by  
20               the Corporation to any insured deposi-  
21               tory institution in danger of default  
22               that is controlled by the financial  
23               services holding company.

24           “(C) MANAGERIAL RESOURCES.—

1           “(i) IN GENERAL.—The financial  
2           services holding company and each deposi-  
3           tory institution subsidiary of such com-  
4           pany—

5                   “(I) are well managed; and

6                   “(II) were well managed during  
7           the 12-month period preceding the ac-  
8           quisition of a securities affiliate (but  
9           for purposes of this subparagraph the  
10          Board may disregard any depository  
11          institution acquired by the financial  
12          services holding company during that  
13          period).

14          “(ii) SECURITIES ACTIVITIES.—The  
15          financial services holding company has the  
16          managerial resources to conduct the pro-  
17          posed securities activities safely and sound-  
18          ly.

19          “(D) INTERNAL CONTROLS.—The financial  
20          services holding company has established ade-  
21          quate policies and procedures to manage finan-  
22          cial and operational risks, to provide reasonable  
23          assurance of compliance with this section and  
24          other applicable laws, and to provide reasonable  
25          assurance of maintenance of corporate sepa-

1           rateness within the financial services holding  
2           company.

3           “(E) NO DETRIMENTAL EFFECT ON FI-  
4           NANCIAL SERVICES HOLDING COMPANY OR ITS  
5           SUBSIDIARY DEPOSITORY INSTITUTIONS.—The  
6           acquisition of a securities affiliate would not ad-  
7           versely affect the safety and soundness of—

8                   “(i) the financial services holding  
9                   company; or

10                   “(ii) any depository institution sub-  
11                   sidiary of the financial services holding  
12                   company.

13           “(F) CONCENTRATION OF RESOURCES.—  
14           The acquisition of a securities affiliate would  
15           not result in an undue concentration of re-  
16           sources in the financial services business.

17           “(G) RESPONSIVENESS TO COMMUNITY  
18           NEEDS.—The lead insured depository institu-  
19           tion subsidiary of the financial services holding  
20           company and insured depository institutions  
21           controlling at least 80 percent of the aggregate  
22           total risk-weighted assets of insured depository  
23           institutions controlled by the financial services  
24           holding company have achieved a ‘satisfactory  
25           record of meeting community credit needs’, or

1 better, during the most recent examination of  
2 such insured depository institutions.

3 “(3) LIMITED NOTICE PROCEDURES FOR PRO-  
4 POSALS BY WELL CAPITALIZED AND WELL MANAGED  
5 COMPANIES TO ACQUIRE ADDITIONAL SECURITIES  
6 AFFILIATES.—A financial services holding company  
7 may, without providing the notice required under  
8 paragraph (1), directly or indirectly acquire the  
9 shares or substantially all of the assets of any com-  
10 pany that is engaged in activities described in sub-  
11 paragraph (A) or (B) of subsection (a)(1), if—

12 “(A) the financial services holding com-  
13 pany previously received the Board’s approval  
14 under paragraph (1) to control a securities af-  
15 filiate and continues to control the securities af-  
16 filiate pursuant to that approval;

17 “(B) the acquisition proposal qualifies  
18 under section 4(j)(4);

19 “(C) the financial services holding com-  
20 pany provides the written notification required  
21 in section 4(j)(5); and

22 “(D) the acquisition would not result in an  
23 undue concentration of resources in the finan-  
24 cial services business.



1           “(4) APPLICATION FEE.—Notwithstanding any  
2       other provision of this Act, no financial services  
3       holding company may acquire any securities affiliate  
4       or make any additional investment in a securities af-  
5       filiate in accordance with subsection (c) unless the  
6       Board has received, from the company, full payment  
7       of a fee which the Board shall impose in accordance  
8       with section 5(h).

9           “(c) ADDITIONAL INVESTMENT IN SECURITIES AF-  
10      FILIATE.—

11           “(1) PRIOR NOTICE REQUIRED.—A financial  
12       services holding company that has acquired control  
13       of a securities affiliate under this section shall not,  
14       directly or indirectly, make any additional invest-  
15       ment in the securities affiliate that is considered  
16       capital for purposes of any capital requirement im-  
17       posed on the securities affiliate under the Securities  
18       Exchange Act of 1934 (other than an extension of  
19       credit under a revolving credit agreement approved  
20       by the Board), unless the financial services holding  
21       company gives the Board prior written notice of the  
22       proposed investment and the Board—

23           “(A) issues a written statement of the  
24       Board’s intent not to disapprove the notice; or

1           “(B) does not disapprove the notice within  
2           30 days after the notice is filed.

3           “(2) NO PRIOR NOTICE REQUIRED FOR CER-  
4           TAIN FINANCIAL SERVICES HOLDING COMPANIES.—

5           “(A) IN GENERAL.—A financial services  
6           holding company shall not be required to pro-  
7           vide prior notice under paragraph (1) if after  
8           making any investment described in paragraph  
9           (1)—

10           “(i) the financial services holding  
11           company would be adequately capitalized  
12           under the capital standards applicable, if  
13           any, to such financial services holding com-  
14           pany and each of the financial services  
15           holding company’s subsidiary depository  
16           institutions would be well capitalized; and

17           “(ii) the financial services holding  
18           company and each of its subsidiary deposi-  
19           tory institutions are well managed (but for  
20           purposes of this clause the Board may dis-  
21           regard any depository institution acquired  
22           by the financial services holding company  
23           during the previous 12-month period).

24           “(B) SUBSEQUENT NOTICE.—A financial  
25           services holding company that makes an invest-

1           ment pursuant to subparagraph (A) shall pro-  
2           vide written notice to the Board of the addi-  
3           tional investment within 10 days after making  
4           the investment.

5           “(3) CRITERIA FOR DISAPPROVING NOTICE.—  
6           The Board may disapprove a notice filed under  
7           paragraph (1) if—

8                   “(A) any depository institution affiliate of  
9                   the securities affiliate is undercapitalized; or

10                   “(B) the Board determines that the finan-  
11                   cial services holding company would be  
12                   undercapitalized under the capital standards  
13                   applicable, if any, to such financial services  
14                   holding company after making the investment  
15                   or that the investment would otherwise be un-  
16                   safe or unsound.

17           “(4) EMERGENCY APPROVAL.—Notwithstanding  
18           any provision of this subsection, in the event of ad-  
19           verse market conditions, or concerns regarding the  
20           financial or operational condition of the securities  
21           affiliate, the Board may approve any additional in-  
22           vestment in the securities affiliate on an emergency  
23           basis if such additional investment does not ad-  
24           versely affect the safety and soundness of all insured  
25           depository institution affiliates of such securities af-

1       filiate and does not diminish the ability of the finan-  
2       cial services holding company to maintain an appro-  
3       priate amount of capital in all such insured deposi-  
4       tory institutions.

5       “(d) PROVISIONS APPLICABLE IF AFFILIATED DE-  
6       POSITORY INSTITUTION CEASES TO BE WELL CAPITAL-  
7       IZED.—

8               “(1) HOLDING COMPANY ACTION REQUIRED IF  
9       AFFILIATED INSTITUTIONS ARE NOT WELL CAPITAL-  
10      IZED.—

11              “(A) APPLICABILITY.—This paragraph  
12      shall apply if—

13              “(i) the lead depository institution of  
14      the financial services holding company is  
15      not well capitalized, or

16              “(ii) well capitalized depository insti-  
17      tutions do not control at least 80 percent  
18      of the aggregate total risk-weighted assets  
19      of depository institutions affiliated with the  
20      securities affiliate.

21              “(B) CAPITAL MAINTENANCE AGREE-  
22      MENT.—Within 30 days after subparagraph (A)  
23      becomes applicable with respect to any financial  
24      services holding company, such company shall  
25      execute an agreement with the Board—

1 “(i) to meet the capital requirements  
2 of subparagraph (A) within a reasonable  
3 period of time; or

4 “(ii) to divest control of the depository  
5 institution in an orderly manner within  
6 180 days, or within such additional period  
7 of time as the Board may determine is rea-  
8 sonably required in order to effect such di-  
9 vestiture.

10 “(C) RESTRICTIONS ON CERTAIN SECURI-  
11 TIES ACTIVITIES.—If a financial services hold-  
12 ing company fails to meet the requirements of,  
13 or comply with the agreement executed pursu-  
14 ant to, subparagraph (B), a securities affiliate  
15 of such financial services holding company shall  
16 not, beginning 180 days after subparagraph (A)  
17 becomes applicable with respect to such com-  
18 pany, agree to underwrite or deal in, any secu-  
19 rities other than—

20 “(i) securities expressly authorized by  
21 section 5136 of the Revised Statutes of the  
22 United States as permissible for a national  
23 bank to underwrite or deal in;

24 “(ii) securities backed by or represent-  
25 ing interests in notes, drafts, acceptances,

1 loans, leases, receivables, other obligations,  
2 or pools of any such obligations; or

3 “(iii) securities issued by an open-end  
4 investment company registered under the  
5 Investment Company Act of 1940.

6 “(D) EXCEPTION.—The Board may permit  
7 the securities affiliate of a financial services  
8 holding company described in subparagraph (C)  
9 to underwrite or deal in securities not described  
10 in clauses (i) through (iii) of such subparagraph  
11 for a period of 1 year from the date on which  
12 subparagraph (A) first becomes applicable with  
13 respect to such company, if—

14 “(i) the financial services holding  
15 company submits a capital restoration plan  
16 to the Board specifying the steps the fi-  
17 nancial services holding company will take  
18 to meet the requirements of subsection  
19 (b)(2)(A), and containing such other infor-  
20 mation as the Board may require; and

21 “(ii) the Board approves the plan.

22 “(E) EXTENSION OF PERIOD.—

23 “(i) IN GENERAL.—Upon application  
24 by a financial services holding company,  
25 the Board may extend, for not more than

1           1 year at a time, the period provided in  
2           subparagraph (C).

3           “(ii) MAXIMUM EXTENSION.—No ex-  
4           tension under clause (i) of the period pro-  
5           vided in subparagraph (C) shall, in the ag-  
6           gregate, exceed 2 years.

7           “(2) DIVESTITURE OF SECURITIES AFFILI-  
8           ATE.—

9           “(A) IN GENERAL.—A financial services  
10          holding company shall divest itself of the securi-  
11          ties affiliate if any of the financial services  
12          holding company’s subsidiary depository institu-  
13          tions has been undercapitalized for more than 6  
14          months.

15          “(B) EXTENDING TIME.—The Board may  
16          provide additional time, not exceeding 18  
17          months, for a divestiture under subparagraph  
18          (A) if—

19               “(i) the appropriate Federal banking  
20               agency or, in the case of a foreign bank or  
21               company that owns or controls a foreign  
22               bank, the Board, has approved the  
23               undercapitalized institution’s capital res-  
24               toration plan; and

1                   “(ii) the Board determines that the  
2                   securities affiliate poses no significant risk  
3                   to any affiliated depository institution.

4           “(e) SECURITIES AFFILIATE EXCLUDED IN DETER-  
5 MINING WHETHER FINANCIAL SERVICES HOLDING COM-  
6 PANY IS ADEQUATELY CAPITALIZED.—

7                   “(1) IN GENERAL.—In determining whether a  
8                   financial services holding company is adequately cap-  
9                   italized—

10                   “(A) the financial services holding compa-  
11                   ny’s capital and total assets shall each be re-  
12                   duced by—

13                   “(i) an amount equal to the amount  
14                   of the financial services holding company’s  
15                   equity investment in any securities affili-  
16                   ate; and

17                   “(ii) an amount equal to the amount  
18                   of any extensions of credit by the financial  
19                   services holding company to any securities  
20                   affiliate that are considered capital for  
21                   purposes of any capital requirement im-  
22                   posed on the securities affiliate under sec-  
23                   tion 15(c)(3) of the Securities Exchange  
24                   Act of 1934; and



1           “(B) the securities affiliate’s assets and li-  
2           abilities shall not be consolidated with those of  
3           the financial services holding company.

4           “(2) EXCEPTION FOR NONSECURITIES ACTIVI-  
5           TIES.—Paragraph (1) shall not apply to the extent  
6           that the Board determines by regulation or order  
7           that—

8           “(A) an item described in such paragraph  
9           relates to activities which are not described in  
10          subparagraph (A) or (B) of subsection (a)(1);  
11          or

12          “(B) another method of adjusting capital  
13          is more appropriate to ensure the safety and  
14          soundness of depository institutions.

15          “(3) EXCEPTION FOR COMPANIES ENGAGED  
16          PREDOMINANTLY IN SECURITIES ACTIVITIES.—Para-  
17          graph (1) shall not apply to an investment bank  
18          holding company which is predominantly engaged in  
19          securities activities on a consolidated basis.

20          “(f) SAFEGUARDS.—Each financial services holding  
21          company and each subsidiary of any such company shall  
22          comply with all applicable safeguard requirements of sec-  
23          tion 11.

24          “(g) ACTIVITIES NOT PERMISSIBLE FOR DEPOSI-  
25          TORY INSTITUTIONS.—

1           “(1) IN GENERAL.—A financial services holding  
2       company that acquires control of a securities affili-  
3       ate shall not, after the end of the 1-year period be-  
4       ginning on the date of such acquisition, permit any  
5       depository institution, or any subsidiary of any de-  
6       pository institution, which is controlled by such hold-  
7       ing company—

8           “(A) to engage, directly or indirectly, in  
9       the United States—

10           “(i) in underwriting securities backed  
11       by or representing interests in notes,  
12       drafts, acceptances, loans, leases, receiv-  
13       ables, other obligations, or pools of any  
14       such obligations originated or purchased by  
15       the institution or its affiliates; or

16           “(ii) in underwriting or dealing in any  
17       other securities,

18       except securities expressly authorized by section  
19       5136 of the Revised Statutes of the United  
20       States as permissible for a national bank to un-  
21       derwrite or deal in; or

22           “(B) to make an equity investment in any  
23       securities affiliate.

24           “(2) EXCEPTION FOR CERTAIN EDGE ACT AND  
25       AGREEMENT CORPORATIONS.—The limitations in

1 paragraph (1)(A) shall not apply with respect to ac-  
2 tivities conducted by a subsidiary of a financial serv-  
3 ices holding company which is held pursuant to sec-  
4 tion 25 or 25A of the Federal Reserve Act or section  
5 4(c)(13) of this Act.

6 “(3) RULE OF CONSTRUCTION.—No provision  
7 of this subsection shall be construed as permitting a  
8 securities affiliate to accept deposits in contravention  
9 of section 21 of the Banking Act of 1933.

10 “(h) APPROVAL OF SECURITIES ACTIVITIES UNDER  
11 SECTION 4(c)(8) RESTRICTED.—The Board shall deny  
12 any notice or application by a financial services holding  
13 company under authority of section 4(c)(8) to engage in,  
14 or acquire the shares of a company engaged in, underwrit-  
15 ing or dealing in securities in the United States, other  
16 than securities expressly authorized by section 5136 of the  
17 Revised Statutes of the United States as permissible for  
18 a national bank to underwrite or deal in.

19 “(i) BANKERS’ BANKS.—

20 “(1) IN GENERAL.—For purposes of this sec-  
21 tion, each shareholder of or participant in a com-  
22 pany that controls a depository institution described  
23 in section 5169(b)(1) of the Revised Statutes of the  
24 United States or in a similar statute of any State,  
25 and each subsidiary of such a shareholder or partici-

1       pant, shall be treated as if such shareholder, partici-  
2       pant, or subsidiary were a subsidiary of that com-  
3       pany.

4           “(2) EXCEPTION.—This subsection shall not  
5       apply with respect to a shareholder or participant in  
6       a company described in subparagraph (A) (or any  
7       subsidiary of such shareholder or participant) if the  
8       shareholder or participant, and the affiliates of any  
9       such shareholder or participant, do not, in the ag-  
10      gregate, control more than 5 percent of any class of  
11      voting shares of such company.

12       “(j) SHARES ACQUIRED IN CONNECTION WITH UN-  
13      DERWRITING AND INVESTMENT BANKING ACTIVITIES.—

14           “(1) IN GENERAL.—Notwithstanding section  
15      4(a), a financial services holding company may di-  
16      rectly or indirectly acquire or control, whether as  
17      principal, on behalf of 1 or more entities (including  
18      entities, other than a depository institution or sub-  
19      sidiary of a depository institution, that the financial  
20      services holding company controls), or otherwise,  
21      shares, assets, or ownership interests (including  
22      without limitation debt or equity securities, partner-  
23      ship interests, trust certificates, or other instru-  
24      ments representing ownership) of a company or  
25      other entity, whether or not constituting control of

1 such company or entity, engaged in activities not au-  
2 thorized pursuant to section 4 if—

3 “(A) the shares, assets, or ownership inter-  
4 ests are not acquired or held by a depository in-  
5 stitution or a subsidiary of a depository institu-  
6 tion;

7 “(B) such shares, assets, or ownership in-  
8 terests are acquired and held by a securities af-  
9 filiate or an affiliate of a securities affiliate as  
10 part of a bona fide underwriting or investment  
11 banking activity, which includes investment ac-  
12 tivities engaged in for the purpose of apprecia-  
13 tion and ultimate resale or other disposition of  
14 the investment, and such shares, assets, or own-  
15 ership interests are held for such a period of  
16 time as will permit the sale or disposition there-  
17 of on a reasonable basis consistent with the na-  
18 ture of such activities; and

19 “(C) during the period such shares, assets,  
20 or ownership interests are held, the financial  
21 services holding company does not actively man-  
22 age or operate the company or entity except in-  
23 sofar as necessary to achieve the objectives of  
24 subparagraph (B).

1           “(2) NO EXPANSION OF UNDERWRITING ACTIVI-  
2           TIES.—No provision of this subsection shall be con-  
3           strued as authorizing any financial services holding  
4           company, or any subsidiary of any such company, to  
5           underwrite or deal in any security.

6           “(3) ACQUISITION FEE.—No financial services  
7           holding company may acquire any company or other  
8           entity under paragraph (1) unless the Board has re-  
9           ceived, from the holding company, full payment of a  
10          fee which the Board shall impose in accordance with  
11          section 5(h).

12          “(k) REGISTRATION FEES.—In the case of any finan-  
13          cial services holding company which controls—

14                  “(1) a securities affiliate; or

15                  “(2) any company or entity pursuant to sub-  
16          section (j),

17          the Board shall assess an annual registration fee in ac-  
18          cordance with section 5(h) on such holding company with  
19          respect to each affiliate, company, or other entity referred  
20          to in paragraph (1) or (2) which is controlled by such  
21          holding company.

22          “(l) DEFINITIONS.—For purposes of this section and  
23          sections 11 and 12, the following definitions shall apply:

1           “(1) CAPITAL STOCK AND SURPLUS.—The term  
2           ‘capital stock and surplus’ has the same meaning as  
3           in section 23A of the Federal Reserve Act.

4           “(2) COVERED TRANSACTION.—The term ‘cov-  
5           ered transaction’ has the same meaning as in section  
6           23A of the Federal Reserve Act.

7           “(3) SECURITY.—

8                 “(A) IN GENERAL.—The term ‘security’  
9                 has the meaning given to such term in section  
10                3(a)(10) of the Securities Exchange Act of  
11                1934.

12               “(B) EXCEPTIONS.—Notwithstanding any  
13               other provision of law, the term ‘security’ does  
14               not include any of the following for purposes of  
15               this section other than subsection (a):

16                     “(i) A contract of insurance.

17                     “(ii) A deposit account, savings ac-  
18                     count, certificate of deposit, or other de-  
19                     posit instrument issued by a depository in-  
20                     stitution.

21                     “(iii) A share account issued by a sav-  
22                     ings association if the account is insured  
23                     by the Federal Deposit Insurance Corpora-  
24                     tion.

25                     “(iv) A banker’s acceptance.

1 “(v) A letter of credit issued by a de-  
2 pository institution.

3 “(vi) A debit account at a depository  
4 institution arising from a credit card or  
5 similar arrangement.

6 “(vii) A loan or loan participation (as  
7 determined by the Board), including any  
8 debt security issued in connection with sov-  
9 ereign debt restructuring which a bank  
10 purchases and sells pursuant to such  
11 bank’s lending authority.

12 “(viii) A qualified financial contract  
13 (as defined in section 11(e)(8)(D)(i) of the  
14 Federal Deposit Insurance Act), as deter-  
15 mined by the Board, after consultation  
16 with and consideration of the views of the  
17 Securities and Exchange Commission, ex-  
18 cept that, for purposes of this section other  
19 than subsection (a), such term does not in-  
20 clude—

21 “(I) any securities contract (as  
22 defined in section 11(e)(8)(D)(ii) of  
23 such Act) that is based on or directly  
24 relates to a security that is not ex-  
25 pressly authorized by section 5136 of



1 the Revised Statutes of the United  
2 States as permissible for a national  
3 bank to underwrite or deal in unless  
4 the Board determines, after consulta-  
5 tion with and consideration of the  
6 views of the Securities and Exchange  
7 Commission, that such securities con-  
8 tract is appropriate for a bank to un-  
9 derwrite or deal in, taking into ac-  
10 count other qualified financial con-  
11 tracts which a bank is permitted to  
12 underwrite or deal in; and

13 “(II) any agreement, contract, or  
14 transaction which is determined by  
15 the Federal Deposit Insurance Cor-  
16 poration in a regulation prescribed  
17 after the date of the enactment of the  
18 Financial Services Competitiveness  
19 and Regulatory Relief Act of 1995 to  
20 be a qualified financial contract unless  
21 the Board determines, after consulta-  
22 tion with and consideration of the  
23 views of the Securities and Exchange  
24 Commission, that such agreement,  
25 contract, or transaction shall be treat-

1                   ed as a qualified financial contract for  
2                   purposes of this section.

3                   “(C) BOARD’S AUTHORITY TO EXEMPT  
4                   TRADITIONAL BANKING PRODUCTS.—Notwith-  
5                   standing any other provision of law, the Board  
6                   may, by regulation or order, exempt a banking  
7                   product from the definition of security if the  
8                   Board finds that—

9                   “(i) the product is available in the  
10                  course of a banking business and is more  
11                  appropriately regulated as a banking prod-  
12                  uct; and

13                  “(ii) the exemption is otherwise con-  
14                  sistent with the purposes of this section,  
15                  the maintenance of fair and orderly mar-  
16                  kets, and the protection of investors.

17                  “(D) DEFINITION FOR LIMITED PUR-  
18                  POSE.—The fact that a particular instrument is  
19                  excluded pursuant to subparagraph (B) or (C)  
20                  from the definition of security for purposes of  
21                  this section shall not be construed as finding or  
22                  implying that such instrument is or is not a se-  
23                  curity for purposes of Federal securities laws.

24                  “(E) RESERVATION OF AUTHORITY TO  
25                  CHARTERING AUTHORITY.—A determination by

1 the Board under this paragraph shall not be  
2 construed in any way as authorizing a bank to  
3 provide any product or service that the bank is  
4 not otherwise authorized to provide under rel-  
5 evant law governing the activities and powers  
6 of the bank.

7 “(F) CONSULTATION WITH COMMISSION.—

8 “(i) NOTICE AND CONSULTATION RE-  
9 QUIRED.—In determining whether to ex-  
10 empt a banking product pursuant to sub-  
11 paragraph (C), the Board shall provide  
12 written notice to, consult with, and con-  
13 sider the views of the Securities and Ex-  
14 change Commission.

15 “(ii) RESPONSE AND PUBLICATION.—  
16 If the Securities and Exchange Commis-  
17 sion comments in writing on a proposed  
18 determination of the Board, the Board  
19 shall—

20 “(I) respond in writing to such  
21 written comment; and

22 “(II) at the request of such com-  
23 mission, publish such comment and  
24 response in the Federal Register at

1                   the time the determination becomes  
2                   effective.”.

3           (b) TRANSITION RULE FOR SECURITIES AFFILIATES  
4 APPROVED UNDER SECTION 4(c)(8).—

5           (1) CONVERSION TO (4)(c)(15) SUBSIDIARY.—

6                   (A) IN GENERAL.—Except as provided in  
7                   subparagraph (B) and paragraphs (3) and (4),  
8                   effective 18 months after the date of enactment  
9                   of this Act, no financial services holding com-  
10                  pany may engage in, or retain the shares of any  
11                  company engaged in, underwriting or dealing in  
12                  securities based on the approval of an applica-  
13                  tion under section 4(c)(8) of the Bank Holding  
14                  Company Act of 1956 (as in effect before the  
15                  date of the enactment of the Financial Services  
16                  Competitiveness and Regulatory Relief Act of  
17                  1995) unless the financial services holding com-  
18                  pany has obtained the Board’s approval to re-  
19                  tain the shares of that company under section  
20                  10.

21                  (B) EXCEPTION FOR BANK ELIGIBLE SE-  
22                  CURITIES.—Subparagraph (A) shall not apply  
23                  with respect to underwriting or dealing in—

24                          (i) securities expressly authorized by  
25                          section 5136 of the Revised Statutes of the

1 United States as permissible for a national  
2 bank to underwrite or deal in; and  
3 (ii) municipal securities.

4 (2) EXTENDING TIME.—

5 (A) IN GENERAL.—The Board may, for  
6 good cause shown, extend the time provided  
7 under paragraph (1) for not more than 18  
8 months.

9 (B) PENDING NOTICES.—If a financial  
10 services holding company has filed a notice  
11 under section 10(b) of the Bank Holding Com-  
12 pany Act of 1956 not later than 180 days after  
13 the date of enactment of this Act, paragraph  
14 (1) shall not apply with respect to the company  
15 engaged in such underwriting or dealing until  
16 180 days after the Board has acted on the no-  
17 tice.

18 (3) CONVERSION PROCEDURES FOR COMPANIES  
19 PREVIOUSLY AUTHORIZED TO CONDUCT SECURITIES  
20 ACTIVITIES.—Any financial services holding com-  
21 pany that controls a company engaged in underwrit-  
22 ing and dealing in corporate debt and equity securi-  
23 ties pursuant to an order issued by the Board under  
24 section 4(c)(8) of the Bank Holding Company Act of  
25 1956 before the date of enactment of the Financial

1 Services Competitiveness and Regulatory Relief Act  
2 of 1995 shall be treated as follows:

3 (A) REVENUE TEST AND CERTAIN OTHER  
4 RESTRICTIONS.—Upon filing the notice required  
5 under section 10(b) of the Financial Services  
6 Holding Company Act of 1995, the financial  
7 services holding company shall be relieved  
8 from—

9 (i) the limitation contained in such  
10 order on the amount of revenue that may  
11 be derived from securities underwriting  
12 and dealing activities; and

13 (ii) any other restriction contained in  
14 such order that would not be required  
15 under section 11 of such Act, as permitted  
16 by the Board.

17 (B) EXAMINATION OF INTERNAL CON-  
18 TROLS.—The financial services holding com-  
19 pany shall not, in connection with action on the  
20 notice submitted under section 10(b)(1) of the  
21 Financial Services Holding Company Act of  
22 1995, be subject to an examination of internal  
23 controls under section 10(b)(2)(D) of such Act.

24 (4) RETENTION OF COMPANIES CONDUCTING  
25 LIMITED SECURITIES ACTIVITIES.—Notwithstanding

1 paragraph (1), any financial services holding com-  
2 pany that controls a company engaged in underwrit-  
3 ing and dealing in securities (other than corporate  
4 debt or equity securities) pursuant to an order is-  
5 sued by the Board under section 4(c)(8) of the Bank  
6 Holding Company Act of 1956 before the date of en-  
7 actment of the Financial Services Competitiveness  
8 Act and Financial Institutions Regulatory Relief of  
9 1995 may retain control of such company, so long  
10 as such company complies with all of the limitations,  
11 restrictions and conditions, including the limitation  
12 on the revenue that may be derived from such un-  
13 derwriting or dealing activities, contained in such  
14 order.

15 **SEC. 104. SAFEGUARDS RELATING TO SECURITIES AFFILI-**  
16 **ATES.**

17 (a) IN GENERAL.—The Bank Holding Company Act  
18 of 1956 (12 U.S.C. 1841 et seq.) is amended—

19 (1) by redesignating sections 11 and 12 as sec-  
20 tions 13 and 14, respectively; and

21 (2) by inserting after section 10 (as added by  
22 section 103 of this Act) the following new section:

1 **“SEC. 11. SAFEGUARDS RELATING TO SECURITIES AFFILI-**  
2 **ATES.**

3 “(a) EXTENSIONS OF CREDIT AND ASSET PUR-  
4 CHASES RESTRICTED.—

5 “(1) IN GENERAL.—No depository institution  
6 affiliated with a securities affiliate shall, directly or  
7 indirectly, do any of the following:

8 “(A) Extend credit in any manner to the  
9 securities affiliate.

10 “(B) Issue a guarantee, acceptance, or let-  
11 ter of credit, including an endorsement or a  
12 standby letter of credit, for the benefit of the  
13 securities affiliate.

14 “(C) Except as provided in paragraph (3),  
15 purchase for its own account, or for the account  
16 of any subsidiary of such institution, financial  
17 assets of the securities affiliate.

18 “(2) EXCEPTION FOR CLEARING SECURITIES.—  
19 Paragraph (1)(A) shall not apply with respect to an  
20 extension of credit by a well capitalized depository  
21 institution to acquire or sell securities if the follow-  
22 ing conditions are met:

23 “(A) The extension of credit is incidental  
24 to clearing transactions in those securities  
25 through that depository institution.



1           “(B) Both the principal of and the interest  
2           on the extension of credit are fully secured by  
3           those securities.

4           “(C) Either—

5                   “(i) the extension of credit is to be re-  
6                   paid before the close of business on the  
7                   same business day; or

8                   “(ii) all of the following conditions are  
9                   satisfied:

10                          “(I) The securities cannot, in the  
11                          ordinary course of business, be cleared  
12                          on that business day.

13                          “(II) The extension of credit is to  
14                          be repaid before the close of business  
15                          on the next business day.

16                          “(III) Extensions of credit sub-  
17                          ject to this clause, when aggregated  
18                          with all other covered transactions be-  
19                          tween the institution and all affiliated  
20                          securities affiliates do not exceed 10  
21                          percent of the institution’s capital  
22                          stock and surplus.

23           “(D) Either—

24                   “(i) the securities are securities ex-  
25                   pressly authorized by section 5136 of the

1 Revised Statutes of the United States as  
2 permissible for a national bank to under-  
3 write or deal in; or

4 “(ii) the Board permits transactions  
5 under this paragraph in securities not de-  
6 scribed in clause (i) and the securities af-  
7 filiate provides the depository institution  
8 with such additional security or other as-  
9 surance of performance, if any, as the  
10 Board shall require to prevent such trans-  
11 actions from posing any appreciable risk to  
12 the institution.

13 “(3) EXCEPTIONS FOR CERTAIN SECURITIES  
14 PURCHASED FOR A DEPOSITORY INSTITUTION’S OWN  
15 ACCOUNT.—Paragraph (1)(C) shall not apply with  
16 respect to purchases at the current market value  
17 (based on reliable and regularly available price  
18 quotations) of—

19 “(A) securities expressly authorized by sec-  
20 tion 5136 of the Revised Statutes of the United  
21 States as permissible for a national bank to un-  
22 derwrite or deal in; or

23 “(B) securities that—

24 “(i) the securities affiliate has been  
25 marking to market daily; and

1                   “(ii) are rated investment grade by at  
2                   least 1 nationally recognized statistical rat-  
3                   ing organization.

4                   “(4) OTHER EXCEPTIONS.—The Board may  
5                   make exceptions to paragraph (1) for well capital-  
6                   ized depository institutions if—

7                   “(A) the transaction is fully secured in ac-  
8                   cordance with section 23A(c) of the Federal Re-  
9                   serve Act; and

10                  “(B) the aggregate amount of covered  
11                  transactions between the institution and all se-  
12                  curities affiliates of the financial services hold-  
13                  ing company, excluding transactions permitted  
14                  under paragraph (2)(C)(i) or (3)(A), does not  
15                  exceed 10 percent of the institution’s capital  
16                  stock and surplus.

17                  “(b) CREDIT ENHANCEMENT RESTRICTED.—

18                  “(1) IN GENERAL.—No depository institution  
19                  affiliated with a securities affiliate shall, directly or  
20                  indirectly, extend credit, or issue or enter into a  
21                  standby letter of credit, asset purchase agreement,  
22                  indemnity, guarantee, insurance, or other facility,  
23                  for the purpose of enhancing the marketability of a  
24                  securities issue underwritten by the securities affili-  
25                  ate.

1           “(2) DEFINITION OF TERM BY BOARD.—The  
2       Board shall prescribe a definition for the term ‘for  
3       the purpose of enhancing the marketability of a se-  
4       curities issue’ for purposes of paragraph (1).

5           “(3) EXCEPTION FOR BANK ELIGIBLE SECURI-  
6       TIES.—Paragraph (1) shall not apply with regard to  
7       securities expressly authorized by section 5136 of  
8       the Revised Statutes of the United States as permis-  
9       sible for a national bank to underwrite or deal in.

10          “(4) APPLICATION TO WELL CAPITALIZED DE-  
11       POSITORY INSTITUTIONS.—

12               “(A) IN GENERAL.—A well capitalized de-  
13       pository institution may engage in a transaction  
14       described in paragraph (1) if—

15                   “(i) the depository institution has  
16               adopted appropriate limits on exposure on  
17               a consolidated basis to any single customer  
18               whose securities are underwritten by the  
19               securities affiliate; and

20                   “(ii) the institution and its securities  
21               affiliate have adopted appropriate proce-  
22               dures, including maintenance of necessary  
23               documentary records, to assure that any  
24               such extension of credit, standby letter of  
25               credit, asset purchase agreement, indem-

1                   nity, guarantee, insurance or other facility,  
2                   is on an arm's length basis.

3                   “(B) ARM’S LENGTH TRANSACTION DE-  
4                   SCRIBED.—An extension of credit may be con-  
5                   sidered to be on an arm's length basis if the  
6                   terms and conditions are substantially the same  
7                   as those prevailing at the time for comparable  
8                   transactions involving securities that are not  
9                   underwritten by the securities affiliate.

10                  “(C) COMPLIANCE WITH PARAGRAPH (1).—  
11                  The Board may require, by regulation or order,  
12                  compliance with paragraph (1) by well capital-  
13                  ized depository institutions exempt under this  
14                  paragraph in order to achieve any purpose spec-  
15                  ified in subsection (l).

16                  “(c) PROHIBITION ON FINANCING PURCHASE OF SE-  
17                  CURITY BEING UNDERWRITTEN.—

18                  “(1) IN GENERAL.—No financial services hold-  
19                  ing company or subsidiary of a financial services  
20                  holding company (other than a securities affiliate)  
21                  shall knowingly extend or arrange for the extension  
22                  of credit, directly or indirectly, secured by or for the  
23                  purpose of purchasing any security while, or for 30  
24                  days after, that security is the subject of a distribu-  
25                  tion in which a securities affiliate of that financial

1 services holding company participates as an under-  
2 writer or a member of a selling group.

3 “(2) RELIANCE ON ACKNOWLEDGEMENT.—For  
4 purposes of paragraph (1), a financial services hold-  
5 ing company or subsidiary may rely on an express  
6 written acknowledgement signed by the borrower  
7 that the credit is not secured by or for the purpose  
8 of purchasing a security described in this subpara-  
9 graph.

10 “(3) APPLICATION TO BANK ELIGIBLE SECURI-  
11 TIES.—Paragraph (1) shall not apply with regard to  
12 extensions of credit if the securities are securities ex-  
13 pressly authorized by section 5136 of the Revised  
14 Statutes of the United States as permissible for a  
15 national bank to underwrite or deal in.

16 “(4) APPLICATION TO WELL CAPITALIZED DE-  
17 POSITORY INSTITUTIONS.—The Board may make ex-  
18 ceptions, by regulation or order, to paragraph (1)  
19 for an extension of credit, after consultation with  
20 and considering the views of the Securities and Ex-  
21 change Commission, if—

22 “(A) the financial services holding com-  
23 pany is adequately capitalized;

1           “(B) the financial services holding compa-  
2           ny’s lead depository institution is well capital-  
3           ized;

4           “(C) well capitalized depository institutions  
5           control at least 80 percent of the assets of de-  
6           pository institutions controlled by the financial  
7           services holding company; and

8           “(D) all depository institutions controlled  
9           by the financial services holding company are  
10          well capitalized or adequately capitalized.

11          “(5) CONSISTENCY WITH THE FEDERAL SECU-  
12          RITIES LAWS.—No provision of this subsection shall  
13          be construed as permitting a securities affiliate to  
14          extend or maintain credit, or arrange for an exten-  
15          sion of credit, except in compliance with applicable  
16          provisions of the Securities Exchange Act of 1934  
17          and the regulations prescribed and interpretations  
18          issued under such Act.

19          “(d) RESTRICTION ON EXTENDING CREDIT TO  
20          MAKE PAYMENTS ON SECURITIES.—

21          “(1) IN GENERAL.—No depository institution  
22          affiliated with a securities affiliate shall, directly or  
23          indirectly, extend credit to an issuer of securities un-  
24          derwritten by the securities affiliate for the purpose

1 of paying the principal of those securities or interest  
2 or dividends on those securities.

3 “(2) EXCEPTIONS FOR CERTAIN EXTENSIONS  
4 OF CREDIT.—Paragraph (1) shall not apply to an  
5 extension of credit for a documented purpose (other  
6 than paying principal, interest, or dividends) if the  
7 timing, maturity, and other terms of the credit,  
8 taken as a whole, are substantially different from  
9 those of the underwritten securities.

10 “(3) EXCEPTIONS FOR BANK ELIGIBLE SECURI-  
11 TIES.—Paragraph (1) shall not apply with respect to  
12 any security expressly authorized by section 5136 of  
13 the Revised Statutes of the United States as permis-  
14 sible for a national bank to underwrite or deal in.

15 “(4) APPLICATION TO WELL CAPITALIZED DE-  
16 POSITORY INSTITUTIONS.—

17 “(A) IN GENERAL.—Paragraph (1) shall  
18 not apply with respect to well capitalized depos-  
19 itory institutions if—

20 “(i) the depository institution has  
21 adopted appropriate limits on exposure on  
22 a consolidated basis to any single customer  
23 whose securities are underwritten by the  
24 securities affiliate; and



1           “(ii) the depository institution has  
2           adopted appropriate procedures, including  
3           maintenance of necessary documentary  
4           records, to assure that any extension of  
5           credit by the depository institution to an  
6           issuer for the purpose of paying the prin-  
7           cipal, interest or dividends on securities  
8           underwritten by the securities affiliate is  
9           on an arm’s length basis.

10           “(B) ARM’S LENGTH TRANSACTION DE-  
11           SCRIBED.—An extension of credit may be con-  
12           sidered to have been made on an arm’s length  
13           basis if the terms and conditions are substan-  
14           tially the same as those prevailing at the time  
15           for comparable transactions with issuers whose  
16           securities are not underwritten by the securities  
17           affiliate.

18           “(C) COMPLIANCE WITH SUBPARAGRAPH  
19           (A).—The Board may require, by regulation or  
20           order, compliance with paragraph (1) by well  
21           capitalized depository institutions exempt under  
22           this paragraph in order to achieve any purpose  
23           specified in subsection (l).

24           “(e) COMMON DIRECTORS AND SENIOR EXECUTIVE  
25           OFFICERS.—

1           “(1) IN GENERAL.—The Board shall, by regula-  
2           tion or order, prescribe the circumstances under  
3           which directors and senior executive officers of a se-  
4           curities affiliate may serve at the same time as di-  
5           rectors or senior executive officers of any affiliated  
6           depository institutions.

7           “(2) STANDARDS.—The Board, in issuing any  
8           regulation or order pursuant to paragraph (1), shall  
9           consider appropriate factors including—

10                   “(A) any burdens imposed by restrictions  
11                   on director and senior executive officer inter-  
12                   locks;

13                   “(B) the safety and soundness of deposi-  
14                   tory institutions and securities affiliates;

15                   “(C) unfair competition in securities activi-  
16                   ties;

17                   “(D) improper exchange of customer infor-  
18                   mation; or

19                   “(E) harm to customers of securities affili-  
20                   ates or depository institutions that could rea-  
21                   sonably result from director and senior officer  
22                   interlocks.

23           “(3) EXCEPTION FOR SMALL FINANCIAL SERV-  
24           ICES HOLDING COMPANIES.—

1           “(A) IN GENERAL.—Notwithstanding para-  
2 graph (1), a director or senior executive officer  
3 of a securities affiliate may serve at the same  
4 time as a director or senior executive officer of  
5 an affiliated depository institution if that insti-  
6 tution and all affiliated depository institutions  
7 have, in the aggregate, total assets of not more  
8 than \$500,000,000.

9           “(B) INFLATION ADJUSTMENT.—The dol-  
10 lar limitation contained in subparagraph (A)  
11 shall be adjusted annually after December 31,  
12 1995, by the annual percentage increase in the  
13 Consumer Price Index for Urban Wage Earners  
14 and Clerical Workers published by the Bureau  
15 of Labor Statistics.

16           “(4) EXCEPTION FOR CERTAIN REGULATION K  
17 AFFILIATES.—Paragraph (1) shall not prohibit a di-  
18 rector or senior executive officer of a securities affli-  
19 ate from serving at the same time as a director or  
20 senior executive officer of a depository institution  
21 which—

22           “(A) is organized under section 25 or 25A  
23 of the Federal Reserve Act;

24           “(B) is an affiliate of such securities affli-  
25 ate; and

1           “(C) principally engages in business out-  
2           side the United States.

3           “(f) DISCLOSURE REQUIRED BY SECURITIES AFFILI-  
4     ATE.—

5           “(1) IN GENERAL.—At the time a securities ac-  
6           count is opened, a securities affiliate shall conspicu-  
7           ously disclose in writing to each of its customers  
8           that—

9           “(A) securities sold, offered, or rec-  
10          ommended by the securities affiliate—

11                   “(i) are not deposits;

12                   “(ii) are not insured by the Federal  
13                  Deposit Insurance Corporation;

14                   “(iii) are not guaranteed by an affili-  
15                  ated insured depository institution;

16                   “(iv) are not otherwise an obligation  
17                  of an insured depository institution (unless  
18                  such is the case); and

19                   “(v) with regard to any product that  
20                  includes any investment component, are  
21                  subject to investment risks including pos-  
22                  sible loss of principal invested;

23           “(B) the securities affiliate is not an in-  
24          sured depository institution, and is a corpora-

1           tion separate from any insured depository insti-  
2           tution; and

3           “(C) the securities affiliate may be under-  
4           writing or dealing in the securities being sold,  
5           offered or recommended, and if so, would have  
6           a financial interest in the transaction.

7           “(2) FORM OF DISCLOSURE.—The disclosures  
8           required by paragraph (1) shall be made in clear  
9           and concise language that—

10           “(A) is readily comprehensible to cus-  
11           tomers of the securities affiliate, and

12           “(B) is designed to promote customer un-  
13           derstanding that uninsured investment products  
14           are not deposits insured by the Federal Deposit  
15           Insurance Corporation.

16           “(3) BOARD AUTHORITY.—Subject to para-  
17           graph (2), the Board may, in the Board’s discretion,  
18           prescribe disclosures in addition to the disclosures  
19           prescribed by paragraph (1).

20           “(g) DISCLOSURE REQUIRED BY INSURED DEPOSI-  
21           TORY INSTITUTIONS.—

22           “(1) IN GENERAL.—No insured depository in-  
23           stitution shall knowingly express any opinion on the  
24           value of, or the advisability of purchasing or selling,  
25           nonbanking products (as defined by the Board) sold

1 by the insured depository institution or any affiliate  
2 of an insured depository institution unless the in-  
3 sured depository institution conspicuously discloses  
4 in writing to the customer that—

5 “(A) the insured depository institution or  
6 affiliate (whichever is applicable) is selling the  
7 nonbanking product and has a financial interest  
8 in the transaction (if such is the case);

9 “(B) the nonbanking products—

10 “(i) are not deposits;

11 “(ii) are not insured by the Federal  
12 Deposit Insurance Corporation;

13 “(iii) are not guaranteed by the insti-  
14 tution or any other affiliated insured de-  
15 pository institution;

16 “(iv) are not otherwise an obligation  
17 of an insured depository institution (unless  
18 such is the case); and

19 “(v) with regard to any nonbanking  
20 product that includes any investment com-  
21 ponent, are subject to investment risks in-  
22 cluding possible loss of principal invested;  
23 and

24 “(C) an affiliate, if involved, is not an in-  
25 sured depository institution (unless such is the

1 case), and is a corporation separate from any  
2 insured depository institution (unless such is  
3 not the case).

4 “(2) FORM OF DISCLOSURE.—The disclosures  
5 required by paragraph (1) shall be made in clear  
6 and concise language that—

7 “(A) is readily comprehensible to cus-  
8 tomers of the insured depository institution,  
9 and

10 “(B) is designed to promote customer un-  
11 derstanding that nonbanking products are not  
12 deposits insured by the Federal Deposit Insur-  
13 ance Corporation.

14 “(3) CUSTOMER ACKNOWLEDGEMENT OF DIS-  
15 CLOSURE.—

16 “(A) IN GENERAL.—Whenever any insured  
17 depository institution or securities affiliate  
18 opens an account for the purpose of selling a  
19 nondeposit investment product or products to a  
20 customer, such insured depository institution or  
21 securities affiliate as the case may be, shall ob-  
22 tain a 1-time acknowledgment of receipt by the  
23 customer of such disclosures, including the date  
24 of receipt with the customer’s name, address,  
25 and the account number.

1           “(B) SPECIAL RULE FOR ACCREDITED IN-  
2           VESTORS.—In the case of any customer who is,  
3           or meets the requirements for, an accredited in-  
4           vestor (as defined in section 2(15) of the Secu-  
5           rities Act of 1933), the acknowledgment of the  
6           receipt of any disclosure described in subpara-  
7           graph (A) may be obtained by the insured de-  
8           pository institution or securities affiliate at the  
9           time any account is opened by such customer.

10          “(4) BOARD AUTHORITY.—Subject to para-  
11          graph (2), the Board, after consultation with the  
12          other appropriate Federal banking agencies, may  
13          prescribe disclosures in addition to the disclosures  
14          required by paragraph (1).

15          “(h) IMPROPER DISCLOSURE OF CONFIDENTIAL  
16          CUSTOMER INFORMATION PROHIBITED.—

17          “(1) IN GENERAL.—No depository institution  
18          subsidiary of a financial services holding company  
19          shall disclose to any affiliate of such institution  
20          which is not a depository institution, and no affiliate  
21          of such company which is not a depository institu-  
22          tion shall disclose to any other affiliate which is a  
23          depository institution or a subsidiary of such an in-  
24          stitution, any nonpublic customer information (in-  
25          cluding an evaluation of the creditworthiness of an



1 issuer or other customer of that institution or secu-  
2 rities affiliate), unless it is clearly and conspicuously  
3 disclosed that such information may be commu-  
4 nicated among such persons and the customer is  
5 given the opportunity, before the time that the infor-  
6 mation is initially communicated, to direct that such  
7 information not be communicated among such per-  
8 sons.

9 “(2) DEFINITION.—For purposes of paragraph  
10 (1), the term ‘nonpublic customer information’ does  
11 not include—

12 “(A) customers’ names and addresses (un-  
13 less a customer has specified otherwise);

14 “(B) information that could be obtained  
15 from unaffiliated credit bureaus or similar com-  
16 panies in the ordinary course of business; or

17 “(C) information that is customarily pro-  
18 vided to unaffiliated credit bureaus or similar  
19 companies in the ordinary course of business  
20 by—

21 “(i) depository institutions not affili-  
22 ated with securities affiliates; or

23 “(ii) brokers and dealers not affiliated  
24 with depository institutions.

1       “(i) UNDERWRITING SECURITIES REPRESENTING  
2 OBLIGATIONS ORIGINATED BY AFFILIATE RE-  
3 STRICTED.—A securities affiliate shall not underwrite se-  
4 curities secured by or representing an interest in mort-  
5 gages or other obligations originated or purchased by an  
6 affiliated depository institution or subsidiary of such an  
7 institution—

8               “(1) unless those securities—

9                       “(A) are rated by at least 1 unaffiliated,  
10 nationally recognized statistical rating organiza-  
11 tion;

12                      “(B) are issued or guaranteed by the Fed-  
13 eral Home Loan Mortgage Corporation, the  
14 Federal National Mortgage Association, or the  
15 Government National Mortgage Association; or

16                      “(C) represent interests in securities de-  
17 scribed in subparagraph (B); or

18               “(2) except as permitted by the Board.

19       “(j) RECIPROCAL ARRANGEMENTS PROHIBITED.—  
20 No financial services holding company and no subsidiary  
21 of a financial services holding company may enter into any  
22 agreement, understanding, or other arrangement under  
23 which—

24               “(1) 1 financial services holding company (or  
25 subsidiary of that financial services holding com-

1       pany) agrees to engage in a transaction with, or on  
2       behalf of, another financial services holding company  
3       (or subsidiary of that financial services holding com-  
4       pany), in exchange for

5               “(2) the agreement of the second financial serv-  
6       ices holding company referred to in paragraph (1)  
7       (or a subsidiary of that financial services holding  
8       company) to engage in any transaction with, or on  
9       behalf of, the first financial services holding com-  
10      pany referred to in such paragraph (or any subsidi-  
11      ary of that financial services holding company), for  
12      the purpose of evading any requirement or restric-  
13      tion of Federal law on transactions between, or for  
14      the benefit of, affiliates of financial services holding  
15      companies.

16      “(k) SAFEGUARDS APPLY TO CERTAIN SUBSIDI-  
17      ARIES.—Except as provided in this section—

18              “(1) SECURITIES AFFILIATE.—No subsidiary of  
19      a securities affiliate may do anything that this sec-  
20      tion prohibits the securities affiliate from doing.

21              “(2) DEPOSITORY INSTITUTION.—No subsidi-  
22      ary of a depository institution may do anything that  
23      this subsection prohibits the institution from doing.

24      “(l) AUTHORITY TO MODIFY AND IMPOSE ADDI-  
25      TIONAL SAFEGUARDS; INTERPRETIVE AUTHORITY.—

1           “(1) IN GENERAL.—The Board may, by regula-  
2       tion or order—

3           “(A) adopt additional limitations, restric-  
4       tions or conditions on relationships or trans-  
5       actions among depository institutions, their af-  
6       filiates, and their customers; and

7           “(B) make any modification to any limita-  
8       tion, restriction, or condition imposed under  
9       this section on relationships or transactions  
10      among depository institutions, the affiliates of  
11      insured depository institutions, and the cus-  
12      tomers of such institutions or affiliates, includ-  
13      ing modifications in addition to those expressly  
14      provided for in this section.

15          “(2) STANDARDS.—The Board may not exercise  
16      authority under paragraph (1) unless the Board  
17      finds that such action is consistent with the pur-  
18      poses of this Act, including—

19          “(A) the avoidance of any significant risk  
20      to the safety and soundness of depository insti-  
21      tutions or the Federal deposit insurance funds;

22          “(B) the enhancement of the financial sta-  
23      bility of financial services holding companies;

24          “(C) the prevention of the subsidization of  
25      securities affiliates by depository institutions;

1           “(D) the avoidance of conflicts of interest  
2           or other abuses; and

3           “(E) the application of the principle of na-  
4           tional treatment and equality of competitive op-  
5           portunity between securities affiliates owned or  
6           controlled by domestic financial services holding  
7           companies and securities affiliates owned or  
8           controlled by foreign banks operating in the  
9           United States.

10          “(3) BIENNIAL REVIEW.—Beginning 2 years  
11          after the date of enactment of the Financial Services  
12          Competitiveness and Regulatory Relief Act of 1995,  
13          the Board shall, on a biennial basis—

14               “(A) review all restrictions established pur-  
15               suant to paragraph (1) to determine whether  
16               any such restrictions are required any longer to  
17               carry out the purposes of this Act; and

18               “(B) modify or eliminate any such restric-  
19               tion that the Board determines is no longer re-  
20               quired to carry out the purposes of this Act.

21          “(m) COMPLIANCE PROGRAMS REQUIRED.—

22               “(1) IN GENERAL.—Each appropriate Federal  
23               banking agency and the Securities and Exchange  
24               Commission shall establish a program for—

1           “(A) sharing information, including reports  
2 of examinations, concerning compliance with  
3 subtitle A of title I or subtitle A or B of title  
4 II of the Financial Services Competitiveness  
5 and Regulatory Relief Act of 1995, and the  
6 amendments made by such subtitles, by—

7           “(i) brokers, dealers, investment ad-  
8 visers, or investment companies that are  
9 registered with the Securities and Ex-  
10 change Commission that are affiliated with  
11 depository institutions, or are separately  
12 identifiable departments or divisions of de-  
13 pository institutions registered as brokers,  
14 dealers, or investment advisers; and

15           “(ii) depository institutions and their  
16 affiliates;

17           “(B) enforcing compliance with subtitle A  
18 of title I of the Financial Services Competitive-  
19 ness and Regulatory Relief Act of 1995, and  
20 the amendments made by such subtitle and  
21 paragraphs (4) and (5) of section 3(a) of the  
22 Securities Exchange Act of 1934 by entities  
23 under its supervision; and

1           “(C) responding to any complaints from  
2 customers about inappropriate cross-marketing  
3 of securities products or inadequate disclosure.

4           “(2) DATA COLLECTION.—

5           “(A) IN GENERAL.—The appropriate Fed-  
6 eral banking agencies, after consultation with  
7 and consideration of the views of the Securities  
8 and Exchange Commission, shall (except as oth-  
9 erwise provided by the appropriate Federal  
10 banking agency after such consultation) require  
11 any depository institution that has effected se-  
12 curities transactions pursuant to any exception  
13 enumerated in paragraphs (4) and (5) of sec-  
14 tion 3(a) of the Securities Exchange Act of  
15 1934 to identify the exceptions relied upon and  
16 to submit such information necessary to mon-  
17 itor compliance under such paragraphs.

18           “(B) COMMISSION ACCESS.—The appro-  
19 priate Federal banking agency shall make any  
20 information referred to in subparagraph (A)  
21 available to the Securities and Exchange Com-  
22 mission, upon the request of the Commission.

23           “(C) COMPLIANCE.—In implementing the  
24 provisions of this paragraph, the appropriate  
25 Federal banking agencies shall ensure that any

1 information requests to depository institutions  
2 take into account the size and activities of the  
3 institutions and do not cause undue reporting  
4 burdens.

5 “(3) COMMISSION’S ENFORCEMENT AUTHOR-  
6 ITY.—Without limiting in any way the authority of  
7 the appropriate Federal banking agencies under this  
8 section, the Securities and Exchange Commission  
9 shall have the authority to enforce any subsection of  
10 this section against a securities affiliate as if such  
11 subsection were a provision of the Securities Ex-  
12 change Act of 1934 to the extent that the subsection  
13 applies with respect to the conduct or activities of  
14 the securities affiliate.

15 “(4) EXAMINATION REPORTS.—

16 “(A) IN GENERAL.—The appropriate Fed-  
17 eral banking agencies shall, to the fullest extent  
18 possible, use the reports of examination of any  
19 broker, dealer, investment adviser, or invest-  
20 ment company made by or on behalf of the Se-  
21 curities and Exchange Commission and reports  
22 made by or on behalf of a registered securities  
23 association or national securities exchange, and  
24 shall defer to such examinations for compliance  
25 with the Federal securities laws.



1           “(B) COMPLIANCE WITH SECTION 11 SAFE-  
2           GUARDS.—The appropriate Federal banking  
3           agencies shall—

4                   “(i) to the fullest extent possible, use  
5                   the reports of examination of any securi-  
6                   ties affiliate made by the appropriate Fed-  
7                   eral banking agency for such affiliate; and

8                   “(ii) defer to such examinations for  
9                   compliance with the provisions of this sec-  
10                  tion.

11           “(5) INTERPRETATIONS OF THE FEDERAL SE-  
12           CURITIES LAWS.—The appropriate Federal banking  
13           agencies shall defer to the Securities and Exchange  
14           Commission regarding all interpretations and en-  
15           forcement of the Federal securities laws relating to  
16           the application of the Federal securities laws to the  
17           activities and conduct of brokers, dealers, investment  
18           advisers, and investment companies.

19           “(6) NOTICE OF CERTAIN ACTIONS BY SEC.—  
20           The Securities and Exchange Commission shall give  
21           notice to the appropriate Federal banking agency  
22           upon the commencement of any disciplinary or law  
23           enforcement proceedings by the Commission and a  
24           copy of any order entered by the Commission  
25           against—

1           “(A) any broker, dealer, or investment ad-  
2           viser that—

3                   “(i) is registered with the Securities  
4                   and Exchange Commission; and

5                   “(ii) is affiliated with, or is a sepa-  
6                   rately identifiable department or division  
7                   of, a depository institution;

8           “(B) any investment company registered  
9           with the Securities and Exchange Commission  
10           that is an affiliate of or is advised by an invest-  
11           ment adviser affiliated with a depository institu-  
12           tion or by a separately identifiable department  
13           or division of a depository institution that is a  
14           registered investment adviser; or

15           “(C) any financial services holding com-  
16           pany, depository institution, or subsidiary of  
17           such company or institution, if the proposed ac-  
18           tion relates to subtitle A of title I or subtitle A  
19           or B of title II of the Financial Services Com-  
20           petitiveness and Regulatory Relief Act of 1995.

21           “(7) NOTICE OF CERTAIN ACTIONS BY APPRO-  
22           PRIATE FEDERAL BANKING AGENCIES.—Upon the  
23           commencement of any disciplinary or law enforce-  
24           ment proceedings to enforce the provisions of sub-  
25           title A of title I of the Financial Services Competi-

1        tiveness and Regulatory Relief Act of 1995, or any  
2        amendment made by such subtitle, by an appro-  
3        priate Federal banking agency against any broker,  
4        dealer, investment adviser, or investment company  
5        that is registered under the Federal securities laws  
6        and is affiliated with a depository institution or is a  
7        separately identifiable department or division of a  
8        depository institution, the appropriate Federal bank-  
9        ing agency shall give notice to the Securities and  
10       Exchange Commission of the proposed action.

11       “(8) IMMEDIATE ACTION ALLOWED BEFORE  
12       NOTICE.—The notice required under paragraph (6)  
13       or (7) may be provided promptly after action by the  
14       Securities and Exchange Commission or the appro-  
15       priate Federal banking agency, if—

16       “(A) the Commission determines that the  
17       protection of investors requires immediate ac-  
18       tion by the Commission and prior notice under  
19       paragraph (6) is not practical under the cir-  
20       cumstances; or

21       “(B) the appropriate Federal banking  
22       agency determines that concerns for the safety  
23       and soundness of a depository institution or its  
24       affiliate require immediate action by the agency

1           and prior notice under paragraph (7) is not  
2           practical under the circumstances.

3           “(9) COORDINATED ENFORCEMENT ACTIONS.—  
4           The Securities and Exchange Commission and the  
5           appropriate Federal banking agencies shall, to the  
6           extent practicable, coordinate supervisory actions  
7           based on applicable law where the actions are based  
8           on the same or related events or practices.

9           “(10) INVESTMENT COMPANIES NOT AFFILI-  
10          ATED WITH A DEPOSITORY INSTITUTION.—The ap-  
11          propriate Federal banking agency shall not have au-  
12          thority under this Act or any other provision of law  
13          to inspect or examine any investment company reg-  
14          istered under the Federal securities laws that is  
15          not—

16                 “(A) affiliated with a depository institu-  
17          tion; or

18                 “(B) advised by an investment adviser af-  
19          filiated with a depository institution or by a  
20          separately identifiable department or division of  
21          a depository institution that is a registered in-  
22          vestment adviser.

23           “(11) USE OF EXAMINATION REPORTS.—The  
24          appropriate Federal banking agencies shall—

1           “(A) to the fullest extent possible, use the  
2           reports of examination of any investment ad-  
3           viser or investment company made by or on be-  
4           half of the Securities and Exchange Commis-  
5           sion; and

6           “(B) defer to such examinations for com-  
7           pliance with the Federal securities laws.

8           “(12) DEFINITION.—For purposes of this sub-  
9           section, the term ‘Federal securities laws’ means the  
10          provisions of Federal law governing securities activi-  
11          ties that are within the jurisdiction of the Securities  
12          and Exchange Commission under the Securities Act  
13          of 1933, the Securities Exchange Act of 1934, the  
14          Investment Company Act of 1940, the Investment  
15          Advisers Act of 1940, and the Trust Indenture Act  
16          of 1939.

17          “(n) FOREIGN BANK FIREWALLS.—

18               “(1) IN GENERAL.—A foreign bank that oper-  
19               ates a branch, agency, or commercial lending com-  
20               pany in the United States and accepts no deposits  
21               in the United States, either directly or through an  
22               affiliate, that are insured under the Federal Deposit  
23               Insurance Act, and any affiliate of such foreign  
24               bank, shall not be subject to the restrictions of any  
25               subsection of this section, other than subsections (l)

1 and (m), if the conditions described in paragraph (2)  
2 are met.

3 “(2) CONDITIONS FOR APPLICABILITY OF EX-  
4 CEPTION.—The conditions of this paragraph have  
5 been met with respect to any foreign bank referred  
6 to in paragraph (1) if—

7 “(A) transactions between a securities af-  
8 filiate of such foreign bank and any branch,  
9 agency or commercial lending company oper-  
10 ated in the United States by such foreign bank  
11 comply with the provisions of sections 23A and  
12 23B of the Federal Reserve Act as if the for-  
13 eign bank were a member bank; and

14 “(B) such foreign bank has received a de-  
15 termination from the Board that the bank  
16 meets capital standards comparable to those es-  
17 tablished by the Board for well capitalized fi-  
18 nancial services holding companies, giving due  
19 regard to the principle of national treatment  
20 and equality of competitive opportunity, subject  
21 to any changes the Board may adopt with re-  
22 spect to such standards.

23 “(3) APPLICABILITY OF SUBSECTION (I) TO  
24 FOREIGN BANKS.—Any limitation, restriction, condi-

1       tion, or modification adopted by the Board under  
2       subsection (l) may be applied by the Board to—

3               “(A) a foreign bank described in para-  
4               graph (1) (and any company that owns or con-  
5               trols such foreign bank);

6               “(B) any branch, agency or commercial  
7               lending company operated by such foreign bank  
8               in the United States; or

9               “(C) any other affiliate of such foreign  
10              bank in the United States,

11      if such limitation, restriction, condition, or modifica-  
12      tion is applied by regulation or order of general ap-  
13      plicability under section 12(a)(2)(B)(ii) to wholesale  
14      financial institutions and securities affiliates con-  
15      trolled by investment bank holding companies, sub-  
16      ject to such modifications, conditions, or exemptions  
17      as the Board deems appropriate, giving due regard  
18      to the principle of national treatment and equality of  
19      competitive opportunity.”.

20      (b) AMENDMENT TO THE FEDERAL RESERVE ACT.—  
21      Section 23B(b)(1)(B) of the Federal Reserve Act (12  
22      U.S.C. 371c–l(b)(1)(B)) is amended by inserting “and for  
23      30 days thereafter” after “during the existence of any un-  
24      derwriting or selling syndicate”.

1       (c) EXEMPTION FROM SECTION 305(b) OF THE FED-  
2 ERAL POWER ACT.—Section 305(b) of the Federal Power  
3 Act shall not apply to any person now holding, or propos-  
4 ing to hold, at the same time the position of officer or  
5 director of a public utility and the position of officer or  
6 director of a bank, trust company, banking association,  
7 or firm permitted by section 10 of the Financial Services  
8 Holding Company Act of 1995 (as amended by section  
9 103(a) of this Act) to underwrite or participate in the  
10 marketing of securities (including commercial paper) of a  
11 public utility, if that bank, trust company, banking asso-  
12 ciation, or firm does not underwrite or participate in the  
13 marketing of securities of the public utility for which the  
14 person serves, or proposes to serve, as an officer or direc-  
15 tor.

16       (d) AMENDMENT TO THE RIGHT TO FINANCIAL PRI-  
17 VACY ACT.—Section 1112(e) of the Right to Financial  
18 Privacy Act (12 U.S.C. 3412(e)) is amended as follows—

19               (1) by striking “this title” and inserting “law”;

20               and

21               (2) by inserting “, examination reports,” after  
22               “financial records”.

23       (e) REGULATIONS TO PRESERVE SEPARATION OF  
24 BANKING AND COMMERCE.—Section 5(b) of the Bank  
25 Holding Company Act of 1956 (12 U.S.C. 1844(b)) is



1 amended by inserting “, including the protection of deposi-  
 2 tory institutions and the separation of banking and com-  
 3 merce,” after “purposes of this Act”.

4 **SEC. 105. OWNERSHIP OF SHARES OF CERTAIN COMPANIES**  
 5 **BY FINANCIAL SERVICES HOLDING COMPA-**  
 6 **NIES.**

7 Section 4 of the Bank Holding Company Act of 1956  
 8 (12 U.S.C. 1843) is amended by adding at the end the  
 9 following new subsection:

10 “(k) OWNERSHIP OF SHARES OF CERTAIN COMPA-  
 11 NIES BY FINANCIAL SERVICES HOLDING COMPANIES.—

12 “(1) NONCONFORMING FINANCIAL COMPA-  
 13 NIES.—Notwithstanding section 4(a), a financial  
 14 services holding company may retain direct or indi-  
 15 rect ownership or control of voting shares of any  
 16 company that—

17 “(A) engages solely in activities that the  
 18 Board finds to be financial but which the Board  
 19 has not authorized under section 4(c)(8) (and  
 20 such other financial activities that the Board  
 21 has authorized) if—

22 “(i) the financial services holding  
 23 company acquired the shares of a company  
 24 engaged in such activities or of each com-  
 25 pany to which the company engaged in

1 such activities is a successor more than 2  
2 years before the date that such financial  
3 services holding company becomes a finan-  
4 cial services holding company;

5 “(ii) the aggregate investment by the  
6 financial services holding company in  
7 shares of all such companies does not ex-  
8 ceed 10 percent of the total consolidated  
9 capital and surplus of the financial services  
10 holding company as of the date that the  
11 holding company becomes a financial serv-  
12 ices holding company or as of the date of  
13 any additional investment by the financial  
14 services holding company in such shares;

15 “(iii) more than 50 percent of the ag-  
16 gregate gross revenues of the financial  
17 services holding company and the subsidi-  
18 aries of such holding company for each of  
19 the 2 calendar years before the date the  
20 holding company becomes a financial serv-  
21 ices holding company were attributable to  
22 securities activities described in subpara-  
23 graphs (A) and (B) of section 10(a)(1), as  
24 determined without taking into account  
25 any activities (other than securities activi-

1           ties) in which financial services holding  
2           companies were permitted to engage before  
3           the date of the enactment of the Financial  
4           Services Competitiveness and Regulatory  
5           Relief Act of 1995; and

6           “(iv) the company engaged in such ac-  
7           tivities continues to engage only in activi-  
8           ties that such company conducted as of the  
9           date that such financial services holding  
10          company becomes a financial services hold-  
11          ing company (or other activities permitted  
12          under section 4(c)(8) or section 10); or

13          “(B) engages in activities not authorized  
14          under section 4 if—

15               “(i) the financial services holding  
16               company held the shares of any company  
17               engaged in such activities as of the date of  
18               the enactment of the Financial Services  
19               Competitiveness and Regulatory Relief Act  
20               of 1995 and the financial services holding  
21               company was then exempt from the provi-  
22               sions of section 4 pursuant to section 4(d)  
23               as of such date;

24               “(ii) the company engaged in such ac-  
25               tivities continues to engage only in the

1 same general lines of business and related  
2 activities that such company conducted as  
3 of the date of the enactment of the Finan-  
4 cial Services Competitiveness and Regu-  
5 latory Relief Act of 1995 (or other activi-  
6 ties permitted under section 4(c) or section  
7 10); and

8 “(iii) 80 percent of the aggregate  
9 gross revenues of the financial services  
10 holding company and the subsidiaries of  
11 such holding company as of the date of the  
12 enactment of the Financial Services Com-  
13 petitiveness and Regulatory Relief Act of  
14 1995 was attributable to—

15 “(I) ownership and operation of  
16 depository institutions;

17 “(II) activities that are financial  
18 in nature as determined by the Board  
19 pursuant to section 4(c)(8);

20 “(III) activities permissible under  
21 section 10; and

22 “(IV) such other activities that  
23 would be permissible generally for the  
24 holding company as a financial serv-

1                   ices holding company (other than as  
2                   an investment bank holding company).

3           “(2) NONFINANCIAL COMPANIES.—

4                   “(A) IN GENERAL.—Notwithstanding sec-  
5           tion 4(a), a financial services holding company  
6           described in paragraph (1)(A)(iii) may, during  
7           the 5-year period beginning on the date that  
8           the company becomes a financial services hold-  
9           ing company, retain direct or indirect ownership  
10          or control of voting shares of any company that  
11          the financial services holding company owns or  
12          controls on the date such holding company be-  
13          comes a financial services holding company.

14                  “(B) EXTENSION OF DIVESTITURE PE-  
15          RIOD.—The Board may extend the period de-  
16          scribed in subparagraph (A) for an additional  
17          period not to exceed 5 years if the Board—

18                       “(i) determines that such extension is  
19                       necessary to avert substantial loss to the  
20                       financial services holding company; and

21                       “(ii) finds that the financial services  
22                       holding company has made good faith ef-  
23                       forts to divest such shares.

24                  “(C) NO EXPANSION OF NONFINANCIAL  
25          COMPANIES PRIOR TO DIVESTITURE.—Unless

1 an acquisition or activity is permitted in accord-  
2 ance with section 3 or 4(c)—

3 “(i) no financial services holding com-  
4 pany, and no company whose shares are  
5 owned or controlled by a financial services  
6 holding company in accordance with this  
7 paragraph, may acquire any interest in or  
8 assets of any other company, and

9 “(ii) no company whose shares are  
10 owned or controlled by a financial services  
11 holding company pursuant to this para-  
12 graph may engage directly or indirectly in  
13 any activity that the company did not con-  
14 duct on the day before the financial serv-  
15 ices holding company registered as a finan-  
16 cial services holding company.

17 “(3) RESTRICTIONS ON JOINT MARKETING.—

18 No depository institution (and no subsidiary of such  
19 institution) shall—

20 “(A) offer or market, directly or indirectly  
21 through any arrangement, any product or serv-  
22 ice of any affiliate whose shares are owned or  
23 controlled by the financial services holding com-  
24 pany pursuant to this subsection or section  
25 10(j); or

1           “(B) permit any of such depository institu-  
 2           tion’s or subsidiary’s products or services to be  
 3           offered or marketed, directly or indirectly  
 4           through any arrangement, by or through any  
 5           affiliate whose shares are owned or controlled  
 6           by the financial services holding company pur-  
 7           suant to this subsection or section 10(j),  
 8           unless, in a case involving an affiliate held under  
 9           this subsection, the product or service is permissible  
 10          for financial services holding companies to provide  
 11          under section 4(c)(8) or 10.

12           “(4) DEPOSITORY INSTITUTION DEFINED.—For  
 13          purposes of paragraph (3), the term ‘depository in-  
 14          stitution’ includes a foreign bank.”.

15   **SEC. 106. PROVISIONS APPLICABLE TO LIMITED PURPOSE**  
 16           **BANKS.**

17          (a) EXCEPTION TO RESTRICTION ON ASSET GROWTH  
 18          OF NONBANK BANKS.—

19           (1) IN GENERAL.—Section 4(f)(3) of the Bank  
 20          Holding Company Act of 1956 (12 U.S.C.  
 21          1843(f)(3)) is amended by adding at the end the fol-  
 22          lowing new subparagraph:

23           “(D) EXCEPTION TO RESTRICTION ON  
 24          ASSET GROWTH, ACTIVITIES, AND CERTAIN  
 25          CROSS-MARKETING RESTRICTIONS.—

1           “(i) QUALIFICATION FOR EXCEPTION  
2 FROM GROWTH RESTRICTION.—A bank  
3 controlled by a company described in para-  
4 graph (1) shall not be subject to the limi-  
5 tation contained in subparagraph (B)(iv) if  
6 the company meets the requirements of  
7 this subparagraph and the requirements of  
8 paragraph (14).

9           “(ii) QUALIFICATION FOR EXCEPTION  
10 FROM ACTIVITIES RESTRICTION.—Notwith-  
11 standing subparagraph (B)(i), a bank con-  
12 trolled by a company described in para-  
13 graph (1) that meets the requirements of  
14 clause (i) may engage in an activity au-  
15 thorized under applicable law (other than  
16 an activity that would have resulted in the  
17 institution being a bank for purposes of  
18 this Act, as in effect on the day before the  
19 date of the enactment of the Competitive  
20 Equality Banking Act of 1987, based on  
21 the activities each bank conducted on  
22 March 5, 1987, as reported to the Board)  
23 if such bank, at least 60 days before com-  
24 mencing such activity, has notified the



1 Board of the bank's intention to commence  
2 such activity and either—

3 “(I) the Board has notified such  
4 bank that the Board will not dis-  
5 approve the proposed activity as un-  
6 safe or unsound; or

7 “(II) the Board has not, within  
8 60 days after receiving such notice,  
9 disapproved the proposal on the basis  
10 of such criteria.

11 “(iii) QUALIFICATION FOR EXCEPTION  
12 FROM CROSS-MARKETING RESTRICTION.—  
13 Notwithstanding subparagraph (B)(ii), a  
14 bank controlled by a company described in  
15 paragraph (1) that meets the requirements  
16 of clause (i) may offer or market products  
17 or services of an affiliate or permit the  
18 bank's products or services to be offered or  
19 marketed in connection with products or  
20 services of an affiliate if such products or  
21 services are offered or marketed only to  
22 the extent permissible for banks or finan-  
23 cial services holding companies to provide  
24 by law, regulation, or order under para-  
25 graph (8) or (15) of subsection (c).

1           “(iv) EXCEPTION FROM DIVESTITURE  
2           REQUIREMENT FOR BANKS RESTORED TO  
3           WELL CAPITALIZED LEVEL.—If any bank  
4           controlled by a company that meets the re-  
5           quirements of clause (i) ceases to be well  
6           capitalized, the company shall divest con-  
7           trol of such bank in accordance with para-  
8           graph (4) unless—

9                   “(I) within 12 months after the  
10                  date the bank ceases to be well cap-  
11                  italized, the capital of the bank is re-  
12                  stored to the well capitalized level;  
13                  and

14                   “(II) after the end of such 12-  
15                  month period, the bank remains well  
16                  capitalized, subject to the capital res-  
17                  toration requirements in subclause (I).

18           “(v) ACTION REQUIRED IF BANK  
19           CEASES TO BE ADEQUATELY CAPITAL-  
20           IZED.—If any bank controlled by a com-  
21           pany that meets the requirements of clause  
22           (i) ceases to be adequately capitalized, the  
23           company shall, within 30 days after the  
24           date as of which the bank ceases to be ade-  
25           quately capitalized—

1 “(I) execute an agreement with  
2 the Board to divest control of such  
3 bank in accordance with paragraph  
4 (4); or

5 “(II) restore the capital of the  
6 bank to at least the adequately cap-  
7 italized level.”.

8 (2) QUALIFICATIONS FOR COMPANIES UNDER  
9 PARAGRAPH (3)(D).—Section 4(f) of the Bank Hold-  
10 ing Company Act of 1956 (12 U.S.C. 1843(f)) is  
11 amended by adding at the end the following new  
12 paragraph:

13 “(14) QUALIFICATIONS FOR COMPANIES UNDER  
14 PARAGRAPH (3)(D).—A company meets the require-  
15 ments of paragraph (3)(D)(i) if—

16 “(A) the company (based on consolidated  
17 revenues) engages in activities that are financial  
18 (including activities not authorized under sub-  
19 section (c)(8)) and predominantly in—

20 “(i) banking;

21 “(ii) activities that the Board has de-  
22 termined under subsection (c)(8) to be fi-  
23 nancial in nature or incidental to such fi-  
24 nancial activities;

1           “(iii) activities permitted under sub-  
2           paragraph (A) or (B) of section 10(a)(1);  
3           and

4           “(iv) other activities that would be  
5           permissible for such company as a finan-  
6           cial services holding company (other than  
7           as an investment bank holding company);

8           “(B) all insured depository institutions  
9           controlled by such company are well capitalized  
10          and well managed;

11          “(C) the bank and any affiliate of the bank  
12          that is engaged in securities activities described  
13          in section 10(a) comply with the safeguards  
14          contained in section 11 as if that affiliate were  
15          a securities affiliate; and

16          “(D) the company has provided at least 60  
17          days prior written notice to the Board and, dur-  
18          ing that period, the Board has not disapproved  
19          the proposal.”.

20          (b) AMENDED DIVESTITURE PROCEDURE FOR CER-  
21          TAIN COMPANIES.—Section 4(f)(4) of the Bank Holding  
22          Company Act of 1956 (12 U.S.C. 1843(f)(4)) is amended  
23          by adding at the end the following: “If any company de-  
24          scribed in paragraph (1) which meets the requirements of  
25          paragraph (3)(D)(i) fails to qualify for the exemption pro-

1 vided under paragraph (2), such company shall divest, in  
 2 accordance with this paragraph, control of each bank the  
 3 company controls unless, within 12 months after the date  
 4 that the company fails to comply with the provisions of  
 5 paragraph (2), the company has corrected the condition  
 6 or ceased the activity that led to the failure to comply.”.

7 (c) CONVERSION OF CERTAIN NONBANK HOLDING  
 8 COMPANIES TO FINANCIAL SERVICES HOLDING COMPA-  
 9 NIES.—Section 4(f) of the Bank Holding Company Act  
 10 of 1956 (12 U.S.C. 1843(f)) is amended by inserting after  
 11 paragraph (14) (as added by subsection (a)(2)) the follow-  
 12 ing new paragraph:

13 “(15) CONVERSION OF CERTAIN COMPANIES TO  
 14 FINANCIAL SERVICES HOLDING COMPANIES.—

15 “(A) IN GENERAL.—During the 18-month  
 16 period beginning on the date of the enactment  
 17 of the Financial Services Competitiveness and  
 18 Regulatory Relief Act of 1995, any company  
 19 described in paragraph (1) may become a finan-  
 20 cial services holding company if—

21 “(i) the company (on a consolidated  
 22 basis) engages in activities that are finan-  
 23 cial (including activities not authorized  
 24 under subsection (c)(8)) and predomi-  
 25 nantly in—

1 “(I) banking;

2 “(II) activities that the Board  
3 has determined under subsection  
4 (c)(8) to be financial in nature or inci-  
5 dental to such financial activities;

6 “(III) activities permitted under  
7 subparagraph (A) or (B) of section  
8 10(a)(1); and

9 “(IV) other activities that would  
10 be permissible for such company as a  
11 financial services holding company  
12 (other than an investment bank hold-  
13 ing company);

14 “(ii) all insured depository institutions  
15 controlled by such company are well cap-  
16 italized and well managed;

17 “(iii) the company provides written  
18 notice to the Board under sections 4 and  
19 10 at least 60 days before the company be-  
20 comes a financial services holding com-  
21 pany;

22 “(iv) the Board does not object to  
23 such transaction before the end of such 60-  
24 day period; and

1           “(v) the Board has received, from the  
2           company, full payment of a fee which the  
3           Board shall impose in accordance with sec-  
4           tion 5(h).

5           “(B) RETENTION OF FINANCIAL COMPA-  
6           NIES.—

7           “(i) IN GENERAL.—Notwithstanding  
8           subsection (a), a company that becomes a  
9           financial services holding company pursu-  
10          ant to subparagraph (A) may retain direct  
11          or indirect ownership or control of voting  
12          shares of any company that engages solely  
13          in activities that the Board finds to be fi-  
14          nancial but which the Board has not au-  
15          thorized under subsection (c)(8) (and such  
16          other financial activities that the Board  
17          has authorized) if the financial services  
18          holding company acquired the shares of  
19          such company, or of each company to  
20          which such company is a successor, before  
21          January 1, 1995.

22          “(ii) LIMITS ON EXPANSION FOLLOW-  
23          ING REGISTRATION.—A company that be-  
24          comes a financial services holding company  
25          pursuant to this paragraph, and any com-

pany whose shares are owned or controlled by a financial services holding company pursuant to this paragraph, shall be subject to the limitations contained in paragraphs (2)(C) and (3) of section 4(k) as if the activities or shares of such company were conducted or held pursuant to section 4(k)(2).

“(iii) PERIOD TO CONFORM OTHER ACTIVITIES.—Notwithstanding subsection (a), a company that becomes a financial services holding company pursuant to subparagraph (A) may retain direct or indirect ownership or control of voting shares of any company not otherwise permitted under this section for the period provided in, and subject to the conditions contained in, paragraphs (2) and (3) of section 4(k).

“(C) ELECTION FOR REDUCED SUPERVISION.—Any company that becomes a financial services holding company pursuant to subparagraph (A) may elect to be governed by the provisions of paragraphs (3), (4), (5), and (6) of section 5(g), subject to the requirements of such section, if—



1 “(i) the company, and any insured de-  
 2 pository institution controlled by such com-  
 3 pany, meet the requirements of section  
 4 5(g) (other than the requirements of para-  
 5 graph (2)(A) of such section);

6 “(ii) the company does not acquire  
 7 more than 5 percent of the shares of any  
 8 additional depository institution after the  
 9 date that such company becomes a finan-  
 10 cial services holding company; and

11 “(iii) no depository institution con-  
 12 trolled by such company acquires, estab-  
 13 lishes, or operates an additional branch of-  
 14 fice after the date that the company be-  
 15 comes a financial services holding com-  
 16 pany.”.

17 **SEC. 107. SECURITIES COMPANY AFFILIATIONS OF FDIC-IN-**  
 18 **SURED BANKS.**

19 (a) IN GENERAL.—Section 18 of the Federal Deposit  
 20 Insurance Act (12 U.S.C. 1828) is amended by adding at  
 21 the end the following new subsections:

22 “(s) SECURITIES AFFILIATIONS OF BANKS.—

23 “(1) IN GENERAL.—A bank shall not be an af-  
 24 filiate of any company that, directly or indirectly,

1 acts as an underwriter or dealer of any security,  
2 other than—

3 “(A) a securities affiliate in accordance  
4 with section 10 of the Financial Services Hold-  
5 ing Company Act of 1995; or

6 “(B) a company that underwrites or deals  
7 only in securities described in section 10(g) of  
8 the Financial Services Holding Company Act of  
9 1995.

10 “(2) EXCEPTIONS.—

11 “(A) CERTAIN BANKS NOT INCLUDED.—  
12 For purposes of this subsection, the term ‘bank’  
13 does not include—

14 “(i) an insured bank described in sub-  
15 paragraph (D), (F), or (H) of section  
16 2(c)(2) of the Financial Services Holding  
17 Company Act of 1995; and

18 “(ii) a Federal branch or an insured  
19 branch (as defined in section 3 of the Fed-  
20 eral Deposit Insurance Act).

21 “(B) AFFILIATIONS WITH EDGE ACT AND  
22 AGREEMENT CORPORATIONS.—Paragraph (1)  
23 shall not apply with respect to the affiliation of  
24 a bank with a company held pursuant to section  
25 25 or 25A of the Federal Reserve Act or section

1           4(c)(13) of the Financial Services Holding  
2           Company Act of 1995.

3           “(3) GRANDFATHER PROVISION.—This sub-  
4           section shall not apply with respect to—

5                   “(A) an affiliation that existed on January  
6                   1, 1995; or

7                   “(B) any new affiliation by an insured  
8                   bank that has an affiliation that would be pro-  
9                   hibited if the affiliation were not covered by  
10                  subparagraph (A).

11           “(4) DEFINITIONS.—For purposes of this sub-  
12           section, the following definitions shall apply:

13                   “(A) BROKER.—The term ‘broker’ has the  
14                   meaning given to such term in section 3(a)(4)  
15                   of the Securities Exchange Act of 1934.

16                   “(B) DEALER.—The term ‘dealer’ has the  
17                   meaning given to such term in section 3(a)(5)  
18                   of the Securities Exchange Act of 1934.

19                   “(C) SECURITY.—The term ‘security’ has  
20                   the meaning given to such term in section 10(l)  
21                   of the Financial Services Holding Company Act  
22                   of 1995.

23                   “(D) UNDERWRITER.—The term ‘under-  
24                   writer’ has the meaning given to such term in  
25                   section 2(11) of the Securities Act of 1933.

1           “(5) AFFILIATE.—For purposes of this sub-  
2           section, a separately identifiable department or divi-  
3           sion (as defined in section 3(a) of the Securities Ex-  
4           change Act of 1934) of a bank shall be deemed to  
5           be a company which is an affiliate of the bank.

6           “(t) BROKER-DEALER REGISTRATION.—An insured  
7           bank may not use the United States mails or any means  
8           or instrumentality of interstate commerce to act as a  
9           broker or dealer without registration under the Securities  
10          Exchange Act of 1934—

11           “(1) except to the extent permitted under the  
12          circumstances described in paragraph (4) or (5) of  
13          section 3(a) of such Act; or

14           “(2) unless otherwise exempt from registrations  
15          as a broker or dealer pursuant to regulations pre-  
16          scribed by the Securities and Exchange Commission.

17          “(u) EXAMINATION REPORTS.—The Federal banking  
18          agencies shall, to the fullest extent possible, use the re-  
19          ports of examination of any broker, dealer, investment ad-  
20          viser, or investment company made by or on behalf of the  
21          Securities and Exchange Commission and reports made  
22          by or on behalf of a registered securities association or  
23          national securities exchange and shall defer to such exam-  
24          ination for compliance with Federal securities laws.

1       “(v) INTERPRETATIONS OF THE FEDERAL SECURI-  
2 TIES LAWS.—The appropriate Federal banking agencies  
3 shall defer to the Securities and Exchange Commission re-  
4 garding all interpretations and enforcement of the Federal  
5 securities laws relating to the application of the Federal  
6 securities laws to the activities and conduct of brokers,  
7 dealers, investment advisers, and investment companies.”.

8       (b) STUDY OF RISKS TO DEPOSIT INSURANCE SYS-  
9 TEM.—

10           (1) STUDY REQUIRED.—During the 6-month  
11 period beginning 18 months after the date of the en-  
12 actment of the Financial Services Competitiveness  
13 and Regulatory Relief Act of 1995, the Federal De-  
14 posit Insurance Corporation shall conduct a study of  
15 the risks posed to the deposit insurance funds by—

16           (A) the affiliation of insured depository in-  
17 stitutions with securities affiliates and other in-  
18 stitutions described in subsection (s)(1) of sec-  
19 tion 18 of the Federal Deposit Insurance Act  
20 (as added by subsection (a) of this section); or

21           (B) any activity described in section 10(a)  
22 (as added by section 103(a) of this Act) of the  
23 Financial Services Holding Company Act of  
24 1995 (as so redesignated by section 128(a) of  
25 this Act) in which insured depository institu-

1           tions may engage in accordance with any provi-  
2           sion of Federal or State law.

3           (2) REPORT TO CONGRESS AND GAO.—

4                 (A) IN GENERAL.—Before the end of the  
5           6-month period described in paragraph (1), the  
6           Federal Deposit Insurance Corporation shall  
7           submit a report to the Congress on the findings  
8           and conclusions of the Corporation with respect  
9           to the study conducted under such paragraph,  
10          together with such conclusions for administra-  
11          tive or legislative action as the Corporation may  
12          determine to be appropriate.

13                (B) DETAILS OF SPECIFIC RISKS.—If the  
14          Federal Deposit Insurance Corporation con-  
15          cludes that certain kinds of activities not spe-  
16          cifically authorized by statute for insured de-  
17          pository institutions before the date of the en-  
18          actment of this Act, or the affiliation of insured  
19          depository institutions with securities affiliates  
20          engaged in certain kinds of securities activities,  
21          pose a greater risk to the deposit insurance  
22          funds than activities specifically authorized by  
23          statute for national banks before January 1,  
24          1995, the report submitted under subparagraph

1 (A) shall contain a detailed explanation of the  
2 basis for such conclusion.

3 (C) TRANSMITTAL TO GAO.—The Federal  
4 Deposit Insurance Corporation shall transmit a  
5 copy of the report referred to in paragraph (1)  
6 to the Comptroller General.

7 (3) ACTION BY FDIC.—If the Federal Deposit  
8 Insurance Corporation concludes that any activity or  
9 affiliation with respect to insured depository institu-  
10 tions poses a greater risk to any deposit insurance  
11 fund than the risk posed by activities specifically au-  
12 thorized by statute for national banks before Janu-  
13 ary 1, 1995, the Federal Deposit Insurance Corpora-  
14 tion shall treat such conclusion as a factor to be  
15 considered in setting semiannual assessments under  
16 section 7(b)(2)(A) of the Federal Deposit Insurance  
17 Act.

18 (4) EVALUATION OF REPORT BY GAO.—The  
19 Comptroller General shall—

20 (A) evaluate the report transmitted by the  
21 Federal Deposit Insurance Corporation to the  
22 Comptroller General under paragraph (2); and

23 (B) submit a report to the Congress on  
24 such evaluation, including a discussion on the  
25 methodology used by the Corporation to assess

1 risks posed by nonbanking activities to the de-  
2 posit insurance funds.

3 **SEC. 108. AUTHORITY TO TERMINATE GRANDFATHER**  
4 **RIGHTS UNDER THE INTERNATIONAL BANK-**  
5 **ING ACT OF 1978.**

6 Section 8(c) of the International Banking Act of  
7 1978 (12 U.S.C. 3106(c)) is amended by adding at the  
8 end the following new paragraph:

9 “(3) PARITY IN CONDUCT OF AUTHORIZED SE-  
10 CURITIES ACTIVITIES.—

11 “(A) IN GENERAL.—Notwithstanding the  
12 provisions of paragraph (1) or any other provi-  
13 sion of law, any authority conferred under this  
14 subsection on any foreign bank or company  
15 with respect to securities activities authorized  
16 for financial services holding companies in the  
17 United States shall terminate 30 days following  
18 approval by the Board of an application by such  
19 foreign bank or company under section 10 of  
20 the Financial Services Holding Company Act of  
21 1995.

22 “(B) AUTHORITY TO IMPOSE CONDI-  
23 TIONS.—If a foreign bank or company that en-  
24 gages directly or through an affiliate in any se-  
25 curities activity pursuant to paragraph (1) has



1 not received approval by the Board under sec-  
2 tion 10 of the Financial Services Holding Com-  
3 pany Act of 1995 to control a securities affiliate  
4 by the end of the 3-year period beginning on  
5 the effective date of such Act, the Board may  
6 impose such limitations and restrictions, includ-  
7 ing the termination of any activities conducted  
8 under paragraph (1) or a requirement that such  
9 activities be conducted in compliance with the  
10 safeguards of section 11 of such Act, as the  
11 Board considers appropriate consistent with the  
12 purposes of this Act and the Financial Services  
13 Holding Company Act of 1995.”.

14 **SEC. 109. EFFECT ON STATE LAWS PROHIBITING THE AF-**  
15 **FILIATION OF BANKS AND SECURITIES COM-**  
16 **PANIES.**

17 (a) IN GENERAL.—Section 7 of the Bank Holding  
18 Company Act of 1956 (12 U.S.C. 1846) is amended by  
19 adding at the end the following new subsection:

20 “(c) AFFILIATIONS AND ACTIVITIES.—No State may  
21 prohibit or limit—

22 “(1) the affiliation of a bank or financial serv-  
23 ices holding company with a securities affiliate solely  
24 because the securities affiliate is engaged in activi-

1       ties described in subparagraph (A) or (B) of section  
2       10(a)(1); or

3               “(2) the insurance or other activities of a sub-  
4       sidiary of a financial services holding company solely  
5       because the financial services holding company is no  
6       longer exempt under this Act pursuant to section  
7       4(d).”.

8       (b) BANK ACTIVITIES.—No provision of this Act, and  
9       no amendment made by this Act to any other provision  
10      of law (other than section 10 or 11 of the Financial Serv-  
11      ices Holding Company Act of 1995 (as added by sections  
12      103 and 104 of this Act), section 18(s) of the Federal  
13      Deposit Insurance Act (as added by section 107 of this  
14      Act), or any amendments made by title II of this Act),  
15      may be construed as affecting the authority of any bank  
16      to engage in any activity authorized for such bank under  
17      the law of such bank’s home State (as defined in section  
18      2(o)(4) of the Financial Services Holding Company Act  
19      of 1995).

20   **SEC. 110. INTERAGENCY AGREEMENT RELATING TO RETAIL**  
21                   **SALES OF CERTAIN NONDEPOSIT INVEST-**  
22                   **MENT PRODUCTS.**

23       Section 18 of the Federal Deposit Insurance Act (12  
24      U.S.C. 1828) is amended by inserting after subsection (u)

1 (as added by section 107 of this Act) the following new  
2 subsection:

3 “(v) JOINT STANDARDS RELATING TO RETAIL SALES  
4 OF CERTAIN NONDEPOSIT INVESTMENT PRODUCTS.—

5 “(1) IN GENERAL.—The appropriate Federal  
6 banking agencies shall jointly prescribe, after con-  
7 sulting with and considering the views of the Securi-  
8 ties and Exchange Commission, standards applicable  
9 to any depository institution which—

10 “(A) is not registered as a broker under  
11 the Securities Exchange Act of 1934; and

12 “(B) effects transactions in securities, in-  
13 cluding securities issued by an investment com-  
14 pany or annuities.

15 “(2) SCOPE OF STANDARDS.—The standards  
16 required under paragraph (1) with respect to securi-  
17 ties and annuities referred to in such paragraph  
18 shall, at a minimum, establish requirements with re-  
19 spect to—

20 “(A) sales practices;

21 “(B) disclosures and advertising in connec-  
22 tion with transactions in such securities and an-  
23 nuities, including—

24 “(i) the content, form, and timing of  
25 any such disclosure; and

1                   “(ii) disclaimers concerning the  
2                   noninsured status of the security or annu-  
3                   ity;

4                   “(C) the compensation of sales personnel  
5                   with respect to referrals or transactions;

6                   “(D) the training of and qualifications for  
7                   personnel involved in such transactions, includ-  
8                   ing training in making an accurate judgment  
9                   about the suitability of a particular investment  
10                  product for a prospective customer; and

11                  “(E) the setting in which and the cir-  
12                  cumstances under which transactions may be  
13                  effected, and referrals made, by sales personnel  
14                  with respect to such securities and annuities.

15                  “(3) COMPARABILITY REQUIREMENT.—The  
16                  standards required under paragraph (1) shall be  
17                  comparable to the standards applicable to brokers  
18                  and dealers registered under the Securities Ex-  
19                  change Act of 1934 unless the appropriate Federal  
20                  banking agencies jointly determine that implementa-  
21                  tion of comparable standards is not necessary or ap-  
22                  propriate for the maintenance of fair and orderly  
23                  markets or the protection of investors or is not in  
24                  the public interest.”.

1 **SEC. 111. EFFECTIVE DATE.**

2 The amendments made by this subtitle shall take ef-  
3 fect at the end of the 90-day period beginning on the date  
4 of the enactment of this Act.

5 **Subtitle B—Investment Bank**  
6 **Holding Companies**

7 **SEC. 116. INVESTMENT BANK HOLDING COMPANIES.**

8 (a) DEFINITIONS.—

9 (1) IN GENERAL.—Section 2 of the Bank Hold-  
10 ing Company Act of 1956 (12 U.S.C. 1842) is  
11 amended by adding at the end the following new  
12 subsections:

13 “(s) WHOLESALE FINANCIAL INSTITUTION.—The  
14 term ‘wholesale financial institution’ means any institution  
15 that is an uninsured State member bank authorized pur-  
16 suant to section 9B of the Federal Reserve Act.

17 “(t) INVESTMENT BANK HOLDING COMPANY.—The  
18 term ‘investment bank holding company’ means any finan-  
19 cial services holding company that—

20 “(1) controls a company engaged in underwrit-  
21 ing corporate equity securities pursuant to section  
22 10;

23 “(2) controls a wholesale financial institution;  
24 and

25 “(3) if the company is a foreign bank that oper-  
26 ates a branch, agency or commercial lending com-

1       pany in the United States, or is a company that con-  
2       trols such foreign bank, is treated as an investment  
3       bank holding company because such bank or com-  
4       pany meets the criteria in section 12(b) and has re-  
5       ceived the determination required by such section.”.

6               (2) DEFINITION OF BANK INCLUDES WHOLE-  
7       SALE FINANCIAL INSTITUTION.—Section 2(c)(1) of  
8       the Bank Holding Company Act of 1956 (12 U.S.C.  
9       1841(c)(1)) is amended by adding at the end the fol-  
10      lowing new subparagraph:

11               “(C) A wholesale financial institution.”.

12       (b) INVESTMENT BANK HOLDING COMPANIES.—The  
13      Bank Holding Company Act of 1956 (12 U.S.C. 1841 et  
14      seq.) is amended by inserting after section 11 (as added  
15      by section 104 of this Act) the following new section:

16      **“SEC. 12. INVESTMENT BANK HOLDING COMPANIES.**

17               “(a) PERMISSIBLE AFFILIATIONS FOR INVESTMENT  
18      BANK HOLDING COMPANIES.—

19               “(1) FINANCIAL ACTIVITIES.—

20               “(A) ACTIVITIES AUTHORIZED.—An in-  
21      vestment bank holding company may directly or  
22      indirectly own or control shares of any company  
23      engaged in any activity the Board has deter-  
24      mined to be financial in nature or incidental to  
25      a financial activity (other than activities ex-

1           pressly limited under subsection (c)(8)), or any  
2           activity in compliance with subparagraph (B) or  
3           (C).

4           “(B) INCIDENTAL ACTIVITIES.—

5                   “(i) IN GENERAL.—Notwithstanding  
6           subparagraph (A), the aggregate invest-  
7           ment by an investment bank holding com-  
8           pany in shares of companies that engage in  
9           nonfinancial activities and financial activi-  
10          ties (other than those otherwise permitted  
11          under this section) shall not at any time  
12          exceed 7.5 percent (or such greater per-  
13          centage as the Board may determine to be  
14          appropriate) of the consolidated total risk-  
15          weighted assets of the investment bank  
16          holding company (excluding assets of com-  
17          panies held pursuant to this subpara-  
18          graph), except that the amount invested by  
19          the investment bank holding company in  
20          any 1 company (including all affiliates of  
21          such company other than preexisting affili-  
22          ates of such investment bank holding com-  
23          pany) may not exceed the amount which is  
24          equal to 25 percent of the total capital and

1 surplus of such investment bank holding  
2 company.

3 “(ii) APPLICABILITY TO SUCCESSOR  
4 IN INTEREST.—Any successor to any in-  
5 vestment bank holding company referred to  
6 in clause (i) may retain any investments  
7 made pursuant to this subparagraph—

8 “(I) during the 5-year period be-  
9 ginning on the date the succession is  
10 consummated; and

11 “(II) with the consent of the  
12 Board, for an additional period not to  
13 exceed 5 years after the 5-year period  
14 referred to in subclause (I),  
15 unless the Board determines that the re-  
16 tention of such investment would jeopard-  
17 ize the safety and soundness of any in-  
18 sured depository institution affiliate of  
19 such successor.

20 “(iii) CROSS MARKETING RESTRIC-  
21 TIONS.—A wholesale financial institution  
22 shall not—

23 “(I) offer or market, directly or  
24 through any arrangement, any prod-  
25 uct or service of an affiliate whose



1 shares are owned or controlled by the  
2 investment bank holding company  
3 pursuant to this subparagraph or sub-  
4 paragraph (C); or

5 “(II) permit any of such whole-  
6 sale financial institution’s or subsidi-  
7 ary’s products or services to be of-  
8 fered or marketed, directly or through  
9 any arrangement, by or through any  
10 such affiliate.

11 “(iv) USE OF COMMON NAME.—An in-  
12 vestment bank holding company shall not  
13 permit a wholesale financial institution to  
14 adopt a name which is the same as or  
15 similar to, or a variation of, the name or  
16 title of an affiliate engaged in activities  
17 pursuant to subparagraph (B).

18 “(C) COMMODITIES.—

19 “(i) IN GENERAL.—An investment  
20 bank holding company predominantly en-  
21 gaged as of January 1, 1995, in securities  
22 activities in the United States (or any suc-  
23 cessor to any such company) may engage  
24 in, or directly or indirectly own or control  
25 shares of a company engaged in, activities

1 related to the trading, sale, or investment  
2 in commodities and underlying physical  
3 properties that were not permissible for  
4 bank holding companies to conduct in the  
5 United States as of January 1, 1995, pro-  
6 vided such investment bank holding com-  
7 pany, or any subsidiary of such holding  
8 company, was engaged directly, indirectly,  
9 or through any such company in any of  
10 such activities as of January 1, 1995, in  
11 the United States.

12 “(ii) LIMITATION.—Notwithstanding  
13 subparagraphs (A) and (B), the aggregate  
14 investment by an investment bank holding  
15 company in activities under this subpara-  
16 graph (other than those otherwise per-  
17 mitted under this section) shall not at any  
18 time exceed 5 percent of the total consoli-  
19 dated assets of the investment bank hold-  
20 ing company.

21 “(iii) SUCCESSOR DEFINED.—For  
22 purposes of this subparagraph and sub-  
23 paragraph (B), the term ‘successor’ means,  
24 with respect to any investment bank hold-  
25 ing company described in clause (i), any

1 company that merges with, or acquires  
2 control of, such investment bank holding  
3 company.

4 “(D) QUALIFIED INVESTOR IN AN INVEST-  
5 MENT BANK HOLDING COMPANY.—

6 “(i) IN GENERAL.—Notwithstanding  
7 any other provision of Federal or State  
8 law, a qualified investor—

9 “(I) shall not be, or be deemed to  
10 be, an investment bank holding com-  
11 pany, a financial services holding com-  
12 pany, a bank holding company, or any  
13 similar organization; and

14 “(II) shall not be deemed to con-  
15 trol any such company or organization  
16 or any subsidiary of any such com-  
17 pany or organization (other than for  
18 purposes of section 23A and 23B of  
19 the Federal Reserve Act),  
20 by virtue of the investor’s ownership or  
21 control of shares of an investment bank  
22 holding company.

23 “(ii) QUALIFIED INVESTOR DE-  
24 FINED.—For purposes of this subpara-  
25 graph, the term ‘qualified investor’ means

1 any United States company (including a  
2 parent company and all subsidiaries of  
3 which the parent company holds at least  
4 80 percent of the total voting equity secu-  
5 rities) which since February 27, 1995, has  
6 directly or indirectly owned or controlled  
7 shares of capital stock representing at  
8 least 10 percent, and not more than 45  
9 percent, of the outstanding voting shares  
10 or voting power of a company that—

11 “(I) becomes an investment bank  
12 holding company or a subsidiary of an  
13 investment bank holding company;  
14 and

15 “(II) before such company be-  
16 came an investment bank holding  
17 company or a subsidiary of an invest-  
18 ment bank holding company, had  
19 more than 50 percent of the compa-  
20 ny’s assets employed directly or indi-  
21 rectly in securities activities.

22 “(iii) CROSS-MARKETING AND COM-  
23 MON NAME.—A wholesale financial institu-  
24 tion shall not—

1           “(I) offer or market products or  
2           services of a qualified investor in the  
3           investment bank holding company of  
4           which the wholesale financial institu-  
5           tion is an affiliate;

6           “(II) permit the institution’s  
7           products or services to be offered or  
8           marketed in connection with products  
9           or services of such qualified investor;  
10          or

11          “(III) adopt a name which is the  
12          same as or similar to, or a variation  
13          of, the name or title of such qualified  
14          investor.

15          “(iv) EXAMINATION AND REPORT-  
16          ING.—Notwithstanding any other provision  
17          of law, the Board may conduct examina-  
18          tions of, or require reports from, a quali-  
19          fied investor only to the extent that the  
20          Board reasonably determines that such ex-  
21          aminations or reports are necessary—

22                 “(I) to ensure compliance with  
23                 this subparagraph; or

24                 “(II) to the extent that the quali-  
25                 fied investor is an affiliate of a whole-

1 sale financial institution for purposes  
2 of section 23A of the Federal Reserve  
3 Act, to ensure compliance with restric-  
4 tions imposed by law or regulation on  
5 transactions between the qualified in-  
6 vestor and such wholesale financial in-  
7 stitution.

8 “(E) SPECIAL RULE.—An investment bank  
9 holding company that owns and controls shares  
10 of a company pursuant to subparagraph (B) or  
11 (C) may not own or control shares of a com-  
12 pany pursuant to section 4(k).

13 “(F) CONSOLIDATED TOTAL RISK-WEIGHT-  
14 ED ASSETS.—For purposes of this paragraph,  
15 the following definitions shall apply:

16 “(i) IN GENERAL.—The term ‘consoli-  
17 dated total risk-weighted assets’ shall have  
18 the meaning given to such term in regula-  
19 tions prescribed by the Board as in effect  
20 on the date of the enactment of the Finan-  
21 cial Services Competitiveness and Regu-  
22 latory Relief Act of 1995.

23 “(ii) APPLICATION TO FOREIGN  
24 BANKS.—In the case of a foreign bank or  
25 a company that owns or controls a foreign

1 bank, the term ‘consolidated total risk-  
2 weighted assets’ means total risk-weighted  
3 assets held by the foreign bank or company  
4 in the United States in any United States  
5 branch, agency, or commercial lending  
6 company subsidiary, any depository institu-  
7 tion controlled by the foreign bank or com-  
8 pany, any subsidiary held under the au-  
9 thority of this section, section 3, 4, or 10  
10 (other than paragraph (9) or (13) of sec-  
11 tion 4(c)), or section 25 or 25A of the  
12 Federal Reserve Act.

13 “(2) SECURITIES ACTIVITIES.—

14 “(A) INSTITUTIONS MUST BE WELL CAP-  
15 ITALIZED.—The Board shall disapprove a no-  
16 tice under section 10 by an investment bank  
17 holding company (or a company seeking to be-  
18 come an investment bank holding company) to  
19 acquire a securities affiliate if any wholesale fi-  
20 nancial institution controlled by the investment  
21 bank holding company is not well capitalized or  
22 would not be well capitalized following the  
23 transaction.

24 “(B) TRANSACTIONS WITH AFFILIATES.—

1           “(i) IN GENERAL.—A wholesale finan-  
2           cial institution controlled by an investment  
3           bank holding company shall be treated as  
4           a bank for purposes of the provisions of  
5           sections 23A and 23B of the Federal Re-  
6           serve Act.

7           “(ii) OTHER RESTRICTIONS REGARD-  
8           ING SECURITIES AFFILIATES DETERMINED  
9           BY THE BOARD.—A securities affiliate of  
10          an investment bank holding company, and  
11          a wholesale financial institution controlled  
12          by an investment bank holding company,  
13          shall not be subject to the provisions of  
14          section 11, except that the securities affili-  
15          ate and wholesale financial institution shall  
16          be subject to subsections (l) and (m) of  
17          such section in the same manner and to  
18          the same extent such paragraphs would  
19          apply if the wholesale financial institution  
20          were an insured depository institution.

21          “(3) LIMITATION ON AFFILIATION WITH IN-  
22          SURED DEPOSITORY INSTITUTIONS.—An investment  
23          bank holding company may not, directly or indi-  
24          rectly, own or control—



1           “(A) any bank, other than a wholesale fi-  
2           nancial institution;

3           “(B) any savings association;

4           “(C) any institution described in section  
5           2(c)(2) (other than subparagraphs (C) and (G)  
6           of such section); or

7           “(D) any institution that accepts—

8                 “(i) initial deposits of \$100,000 or  
9                 less, other than on an incidental or occa-  
10                sional basis, or

11               “(ii) deposits that are insured under  
12               the Federal Deposit Insurance Act.

13           “(4) NO DEPOSIT INSURANCE FUND LIABIL-  
14           ITY.—No Federal deposit insurance funds may be  
15           used in connection with the failure of, or any pro-  
16           posed assistance to, a wholesale financial institution  
17           or an investment bank holding company.

18           “(5) CAPITAL OF IBHC.—

19                 “(A) IN GENERAL.—The Board shall not  
20                 impose any capital requirement on investment  
21                 bank holding companies or subsidiaries of such  
22                 companies (other than depository institutions)  
23                 unless any such requirement is based upon ap-  
24                 propriate risk-weighting considerations.

1           “(B) APPLICABLE ACCOUNTING PRIN-  
2           CIPLES.—In applying any capital standard to  
3           investment bank holding companies, or subsidi-  
4           aries of such companies, the Board shall utilize  
5           uniform accounting principles consistent with  
6           generally accepted accounting principles in ac-  
7           cordance with section 37(a)(2) of the Federal  
8           Deposit Insurance Act.

9           “(b) QUALIFICATION OF FOREIGN BANK AS INVEST-  
10          MENT BANK HOLDING COMPANY.—

11           “(1) IN GENERAL.—Any foreign bank that—

12                   “(A) operates a branch, agency or commer-  
13                   cial lending company in the United States (and  
14                   any company that owns or controls such foreign  
15                   bank), including a foreign bank that does not  
16                   own or control a wholesale financial institution;  
17                   and

18                   “(B) controls a security affiliate that en-  
19                   gages in underwriting corporate equity securi-  
20                   ties,

21           may request a determination from the Board that  
22           such bank or company be treated as an investment  
23           bank holding company.

24           “(2) CONDITIONS FOR TREATMENT AS AN IN-  
25          VESTMENT BANK HOLDING COMPANY.—A foreign

1 bank and a company that owns or controls a foreign  
2 bank may not be treated as an investment bank  
3 holding company unless the bank and company meet  
4 and continue to meet the following criteria:

5 “(A) NO INSURED DEPOSITS.—No deposits  
6 held directly by a foreign bank or through an  
7 affiliate are insured under the Federal Deposit  
8 Insurance Act.

9 “(B) CAPITAL STANDARDS.—The foreign  
10 bank meets risk-based capital standards com-  
11 parable to the capital standards required for a  
12 wholesale financial institution, giving due re-  
13 gard to the principle of national treatment and  
14 equality of competitive opportunity.

15 “(C) TRANSACTIONS WITH AFFILIATES.—  
16 Transactions between a branch, agency, or com-  
17 mercial lending company subsidiary of the for-  
18 eign bank in the United States, and any securi-  
19 ties affiliate or company in which the foreign  
20 bank (or any company that owns or controls  
21 such foreign bank) has invested pursuant to  
22 subsection (a)(1)(B), comply with the provisions  
23 of sections 23A and 23B of the Federal Reserve  
24 Act in the same manner and to the same extent  
25 as such transactions would be required to com-

1           ply with such sections if the bank were a mem-  
2           ber bank.

3           “(3) TREATMENT AS A WHOLESALE FINANCIAL  
4           INSTITUTION.—Any foreign bank which is, or is af-  
5           filiated with a company which is, treated as an in-  
6           vestment bank holding company under this sub-  
7           section shall be treated as a wholesale financial insti-  
8           tution for purposes of clauses (iii) and (iv) of sub-  
9           section (a)(1)(B), subsection (a)(2)(B)(ii), and sec-  
10          tion 5(g), except that the Board may adopt such  
11          modifications, conditions, or exemptions as the  
12          Board deems appropriate, giving due regard to the  
13          principle of national treatment and equality of com-  
14          petitive opportunity.

15          “(4) NONAPPLICABILITY OF OTHER EXEMP-  
16          TION.—Any foreign bank or company which is treat-  
17          ed as an investment bank holding company under  
18          this subsection shall not be eligible for any exemp-  
19          tion described in section 2(h).

20          “(c) ELIGIBILITY OF FOREIGN BANKS FOR CERTAIN  
21          TREATMENT.—

22                  “(1) RECIPROCAL NATIONAL TREATMENT.—

23                          “(A) IN GENERAL.—A foreign bank that  
24                          operates a branch, agency or commercial lend-  
25                          ing company in the United States, and any

1 company that owns or controls such a foreign  
2 bank, shall be eligible for the treatment af-  
3 farded under subsection (b) or section 11(n)  
4 only if the home country of such foreign bank  
5 or company accords to United States banks the  
6 same competitive opportunities in banking as  
7 such country accords to domestic banks of such  
8 country.

9 “(B) COORDINATION WITH NAFTA.—Sub-  
10 paragraph (A) shall not apply in derogation of  
11 any obligation under the North American Free  
12 Trade Agreement.

13 “(C) HOME COUNTRY DEFINED.—For pur-  
14 poses of subparagraph (A), the term ‘home  
15 country’ means, with respect to any foreign  
16 bank or company referred to in subparagraph  
17 (A), the country under the laws of which the  
18 foreign bank or company is organized.

19 “(2) PREVENTION OF EVASION.—No foreign  
20 bank or bank owned by a former United States na-  
21 tional may operate a branch or agency in the United  
22 State if the predominance of the assets of such bank  
23 were acquired in connection with a merger with, or  
24 purchase or assumption of all or substantially all the  
25 assets of, a wholesale financial institution.

1       “(d) RULE FOR FINANCIAL SERVICES HOLDING  
2 COMPANIES.—For purposes of section 5(g)(2)(A)(ii), any  
3 foreign bank (as defined in section 1(b) of the Inter-  
4 national Banking Act of 1978) which is directly or indi-  
5 rectly owned, controlled, or operated by a company that—

6               “(1) as of January 1, 1995, was registered as  
7 a bank holding company; or

8               “(2) is a successor to any such bank holding  
9 company,

10 shall be treated as a wholesale financial institution.”.

11       (c) CONFORMING AMENDMENTS.—

12               (1) EXCEPTION TO DEPOSIT INSURANCE RE-  
13 QUIREMENT.—Section 3(e) of the Bank Holding  
14 Company Act of 1956 (12 U.S.C. 1842(e)) is  
15 amended by adding at the end the following: “This  
16 subsection shall not apply to a wholesale financial  
17 institution that is controlled by an investment bank  
18 holding company that controls no banks other than  
19 wholesale financial institutions.”.

20               (2) APPROPRIATE FEDERAL BANKING AGEN-  
21 CY.—Section 3(q)(2)(A) of the Federal Deposit In-  
22 surance Act (12 U.S.C. 1813(q)(2)(A)) is amended  
23 to read as follows:

24                       “(A) any State member insured bank (ex-  
25 cept a District bank) and wholesale financial in-

1           stitution as authorized pursuant to section 9B  
2           of the Federal Reserve Act;”.

3 **SEC. 117. WHOLESALE FINANCIAL INSTITUTIONS.**

4           (a) IN GENERAL.—The Federal Reserve Act (12  
5 U.S.C. 221 et seq.) is amended by inserting after section  
6 9A the following new section:

7 **“SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.**

8           “(a) APPLICATION FOR MEMBERSHIP AS WHOLE-  
9 SALE FINANCIAL INSTITUTION.—

10           “(1) APPLICATION REQUIRED.—

11           “(A) IN GENERAL.—Any bank incor-  
12 porated by special law of any State, or orga-  
13 nized under the general laws of any State, may  
14 apply to the Board of Governors of the Federal  
15 Reserve System to become a wholesale financial  
16 institution and to subscribe to the stock of the  
17 Federal reserve bank organized within the dis-  
18 trict where the applying bank is located.

19           “(B) TREATMENT AS STATE MEMBER  
20 BANK.—Any application under subparagraph  
21 (A) shall be treated as an application to become  
22 a State member bank under, and shall be sub-  
23 ject to the provisions of, section 9.

24           “(2) INSURANCE TERMINATION.—No bank that  
25 is insured under the Federal Deposit Insurance Act

1       may become a wholesale financial institution unless  
2       it has met all requirements under that Act for vol-  
3       untary termination of deposit insurance.

4           “(3) APPLICATION FEE.—No bank or organiza-  
5       tion may become a wholesale financial institution  
6       unless the Board has received, from the bank or or-  
7       ganization, full payment of a fee which the Board  
8       shall impose in the manner provided under section  
9       5(h) of the Financial Services Holding Company Act  
10      of 1995.

11      “(b) GENERAL REQUIREMENTS APPLICABLE TO  
12      WHOLESALE FINANCIAL INSTITUTIONS.—

13           “(1) FEDERAL RESERVE ACT.—Except as oth-  
14       erwise provided in this section, wholesale financial  
15       institutions shall be member banks and shall be sub-  
16       ject to the provisions of this Act that apply to mem-  
17       ber banks to the same extent and in the same man-  
18       ner as State member insured banks, except that a  
19       wholesale financial institution may terminate mem-  
20       bership under this Act only with the prior written  
21       approval of the Board and on terms and conditions  
22       that the Board determines are appropriate to carry  
23       out the purposes of this Act.

24           “(2) PROMPT CORRECTIVE ACTION.—A whole-  
25       sale financial institution shall be deemed to be an in-



1       sured depository institution for purposes of section  
2       38 of the Federal Deposit Insurance Act except  
3       that—

4               “(A) the relevant capital levels and capital  
5       measures for each capital category shall be the  
6       levels specified by the Board for wholesale fi-  
7       nancial institutions in accordance with sub-  
8       section (c);

9               “(B) the provisions applicable to well cap-  
10      italized insured depository institutions shall be  
11      inapplicable to wholesale financial institutions;

12              “(C) the provisions authorizing or requir-  
13      ing an institution to be placed into receivership  
14      shall not apply to a wholesale financial institu-  
15      tion, and, instead, the Board is authorized or  
16      required, as the case may be, to terminate the  
17      wholesale financial institution’s membership in  
18      the Federal Reserve System or place the bank  
19      into conservatorship; and

20              “(D) for purposes of applying the provi-  
21      sions of section 38 of the Federal Deposit In-  
22      surance Act to wholesale financial institutions,  
23      all references to the appropriate Federal bank-  
24      ing agency or to the Corporation in that section  
25      shall be deemed to be references to the Board.

1           “(3) ENFORCEMENT AUTHORITY.—Subsections  
2           (j) and (k) of section 7, subsections (b) through (n),  
3           (s), (u), and (v) of section 8, and section 19 of the  
4           Federal Deposit Insurance Act shall apply to a  
5           wholesale financial institution in the same manner  
6           and to the same extent as such provisions apply to  
7           State member insured banks and any reference in  
8           such sections to an insured depository institution  
9           shall be deemed, for purposes of this paragraph, to  
10          be a reference to a wholesale financial institution.

11          “(4) CERTAIN OTHER STATUTES APPLICA-  
12          BLE.—A wholesale financial institution shall be  
13          deemed to be a banking institution, and the Board  
14          shall be the appropriate Federal banking agency for  
15          such bank and all such bank’s affiliates, for pur-  
16          poses of the International Lending Supervision Act.

17          “(5) BANK MERGER ACT.—A wholesale finan-  
18          cial institution shall be subject to the provisions of  
19          sections 18(c) and 44 of the Federal Deposit Insur-  
20          ance Act in the same manner and to the same extent  
21          the wholesale financial institution would be subject  
22          to such sections if the institution were a State mem-  
23          ber insured bank.

24          “(6) REGISTRATION FEE.—The Board shall as-  
25          sess an annual registration fee in the manner pro-

1        vided in section 5(h) of the Financial Services Hold-  
2        ing Company Act of 1995 on each wholesale finan-  
3        cial institution.

4        “(c) SPECIFIC REQUIREMENTS APPLICABLE TO  
5        WHOLESAL FINANCIAL INSTITUTIONS.—

6                “(1) LIMITATIONS ON DEPOSITS.—

7                        “(A) MINIMUM AMOUNT.—

8                                “(i) IN GENERAL.—Pursuant to such  
9                                regulations as the Board may prescribe, no  
10                                wholesale financial institution may receive  
11                                initial deposits of \$100,000 or less, other  
12                                than on an incidental and occasional basis.

13                                “(ii) LIMITATION ON DEPOSITS OF  
14                                LESS THAN \$100,000.—No bank may be  
15                                treated as a wholesale financial institution  
16                                if the total amount of the initial deposits  
17                                of \$100,000 or less at such bank constitute  
18                                more than 5 percent of the bank’s total de-  
19                                posits.

20                                “(B) NO DEPOSIT INSURANCE.—No depos-  
21                                its held by a wholesale financial institution shall  
22                                be insured deposits under the Federal Deposit  
23                                Insurance Act.

24                                “(C) ADVERTISING AND DISCLOSURE.—

25                                The Board shall prescribe regulations pertain-

1 ing to advertising and disclosure by wholesale  
2 financial institutions to ensure that each deposi-  
3 tor is notified that deposits at the wholesale fi-  
4 nancial institution are not federally insured or  
5 otherwise guaranteed by the United States Gov-  
6 ernment.

7 “(2) SPECIAL CAPITAL REQUIREMENTS APPLI-  
8 CABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

9 “(A) MINIMUM CAPITAL LEVELS.—

10 “(i) IN GENERAL.—The Board shall,  
11 by regulation, adopt capital requirements  
12 for wholesale financial institutions—

13 “(I) to account for the status of  
14 wholesale financial institutions as in-  
15 stitutions that accept deposits that  
16 are not insured under the Federal De-  
17 posit Insurance Act; and

18 “(II) to provide for the safe and  
19 sound operation of the wholesale fi-  
20 nancial institution without undue risk  
21 to creditors or other persons, includ-  
22 ing Federal reserve banks, engaged in  
23 transactions with the bank.

24 “(ii) MINIMUM TIER 1 CAPITAL  
25 RATIO.—The minimum ratio of tier 1 cap-

1           ital to total risk-weighted assets of whole-  
2           sale financial institutions shall be not less  
3           than the level required for a State member  
4           insured bank to be well capitalized unless  
5           the Board determines otherwise, consistent  
6           with safety and soundness.

7           “(B) CAPITAL CATEGORIES FOR PROMPT  
8           CORRECTIVE ACTION.—For purposes of apply-  
9           ing section 38 of the Federal Deposit Insurance  
10          Act with respect to any wholesale financial in-  
11          stitution, the Board shall, by regulation, estab-  
12          lish, for each relevant capital measure specified  
13          by the Board under subparagraph (A), the lev-  
14          els at which a wholesale financial institution is  
15          well capitalized, adequately capitalized,  
16          undercapitalized, significantly undercapitalized,  
17          and critically undercapitalized.

18          “(3) ADDITIONAL REQUIREMENTS APPLICABLE  
19          TO WHOLESALE FINANCIAL INSTITUTIONS.—In addi-  
20          tion to any requirement otherwise applicable to State  
21          member banks or applicable, under this section, to  
22          wholesale financial institutions, the Board may pre-  
23          scribe, by regulation or order, for wholesale financial  
24          institutions—

1           “(A) limitations on transactions with affili-  
2           ates to prevent an affiliate from gaining access  
3           to, or the benefits of, credit from a Federal re-  
4           serve bank, including overdrafts at a Federal  
5           reserve bank;

6           “(B) special clearing balance requirements;  
7           and

8           “(C) any additional requirements that the  
9           Board determines to be appropriate or nec-  
10          essary to—

11               “(i) promote the safety and soundness  
12               of the wholesale financial institution, or

13               “(ii) protect creditors and other per-  
14               sons, including Federal reserve banks, en-  
15               gaged in transactions with the wholesale fi-  
16               nancial institution.

17           “(4) EXEMPTIONS FOR WHOLESALE FINANCIAL  
18           INSTITUTIONS.—The Board may, by regulation or  
19           order, exempt any wholesale financial institution  
20           from any provision applicable to a State member  
21           bank that is not a wholesale financial institution, if  
22           the Board finds that such exemption is not incon-  
23           sistent with—

1           “(A) the promotion of the safety and  
2           soundness of the wholesale financial institution;  
3           and

4           “(B) the protection of creditors and other  
5           persons, including Federal reserve banks, en-  
6           gaged in transactions with the wholesale finan-  
7           cial institution.

8           “(5) NO EFFECT ON OTHER PROVISIONS.—This  
9           section shall not be construed as limiting the  
10          Board’s authority over member banks under any  
11          other provision of law, or to create any obligation for  
12          any Federal reserve bank to make, increase, renew,  
13          or extend any advances or discount under this Act  
14          to any member bank or other depository institution.

15          “(d) CONSERVATORSHIP AUTHORITY.—

16          “(1) IN GENERAL.—The Board may appoint a  
17          conservator to take possession and control of a  
18          wholesale financial institution to the same extent  
19          and in the same manner as the Comptroller of the  
20          Currency may appoint a conservator for a national  
21          bank under section 203 of the Bank Conservation  
22          Act, and the conservator shall exercise the same  
23          powers, functions, and duties, subject to the same  
24          limitations, as are provided under such Act for con-  
25          servators of national banks.

1           “(2) BOARD AUTHORITY.—The Board shall  
2       have the same authority with respect to any con-  
3       servator appointed under paragraph (1) and the  
4       wholesale financial institution for which such con-  
5       servator has been appointed as the Comptroller of  
6       the Currency has under the Bank Conservation Act  
7       with respect to a conservator appointed under such  
8       Act and a national bank for which the conservator  
9       has been appointed.

10       “(e) DEFINITIONS.—For purposes of this section, the  
11       following definitions shall apply:

12           “(1) WHOLESALE FINANCIAL INSTITUTION.—  
13       The term ‘wholesale financial institution’ means a  
14       bank whose application to become a wholesale finan-  
15       cial institution and a State member bank has been  
16       approved by the Board under this section.

17           “(2) DEPOSIT.—The term ‘deposit’ has the  
18       meaning given to such term by the Board under this  
19       Act.

20           “(3) STATE MEMBER INSURED BANK.—The  
21       term ‘State member insured bank’ means a State  
22       member bank which is an insured bank (as defined  
23       in section 3(h) of the Federal Deposit Insurance  
24       Act).



1 “(f) EXCLUSIVE JURISDICTION.—Subsections (c) and  
2 (e) of section 43 of the Federal Deposit Insurance Act  
3 shall not apply to any wholesale financial institution.”.

4 (b) VOLUNTARY TERMINATION OF INSURED STATUS  
5 BY CERTAIN INSTITUTIONS.—

6 (1) SECTION 8 DESIGNATIONS.—Section 8(a) of  
7 the Federal Deposit Insurance Act (12 U.S.C.  
8 1818(a)) is amended—

9 (A) by striking paragraph (1); and

10 (B) by redesignating paragraphs (2)  
11 through (9) as paragraphs (1) through (8), re-  
12 spectively.

13 (2) VOLUNTARY TERMINATION OF INSURED  
14 STATUS.—The Federal Deposit Insurance Act (12  
15 U.S.C. 1811 et seq.) is amended by inserting after  
16 section 8 the following new section:

17 **“SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS IN-**  
18 **SURED DEPOSITORY INSTITUTION.**

19 “(a) IN GENERAL.—Except as provided in subsection  
20 (b), an insured State bank or a national bank may volun-  
21 tarily terminate such bank’s status as an insured deposi-  
22 tory institution in accordance with regulations of the Cor-  
23 poration if—

24 “(1) the bank provides written notice of the  
25 bank’s intent to terminate such insured status—

1           “(A) to the Corporation and the Board of  
2           Governors of the Federal Reserve System not  
3           less than 6 months before the effective date of  
4           such termination; and

5           “(B) to all depositors at such bank, not  
6           less than 6 months before the effective date of  
7           the termination of such status; and

8           “(2) either—

9           “(A) the deposit insurance fund of which  
10          such bank is a member equals or exceeds the  
11          fund’s designated reserve ratio as of the date  
12          the bank provides a written notice under para-  
13          graph (1) and the Corporation determines that  
14          the fund will equal or exceed the applicable des-  
15          ignated reserve ratio for the 2 semiannual as-  
16          sessment periods immediately following such  
17          date; or

18          “(B) the Corporation and the Board of  
19          Governors of the Federal Reserve System ap-  
20          prove the termination of the bank’s insured sta-  
21          tus and the bank pays an exit fee in accordance  
22          with subsection (e).

23          “(b) EXCEPTION.—Subsection (a) shall not apply  
24          with respect to—

25          “(1) an insured savings association;

1           “(2) an insured branch that is required to be  
2       insured under subsection (a) or (b) of section 6 of  
3       the International Banking Act of 1978; or

4           “(3) any institution described in section 2(c)(2)  
5       of the Bank Holding Company Act of 1956.

6       “(c) ELIGIBILITY FOR INSURANCE TERMINATED.—  
7       Any bank that voluntarily elects to terminate the bank’s  
8       insured status under subsection (a) shall not be eligible  
9       for insurance on any deposits or any assistance authorized  
10      under this Act after the period specified in subsection  
11      (f)(1).

12      “(d) INSTITUTION MUST BECOME WHOLESALE FI-  
13      NANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING  
14      ACTIVITIES.—Any depository institution which voluntarily  
15      terminates such institution’s status as an insured deposi-  
16      tory institution under this section may not, upon termi-  
17      nation of insurance, accept any deposits unless the institu-  
18      tion is a wholesale financial institution under section 9B  
19      of the Federal Reserve Act.

20      “(e) EXIT FEES.—

21           “(1) IN GENERAL.—Any bank that voluntarily  
22      terminates such bank’s status as an insured deposi-  
23      tory institution under this section shall pay an exit  
24      fee in an amount that the Corporation determines is  
25      sufficient to account for the institution’s pro rata

1 share of the amount (if any) which would be re-  
2 quired to restore the relevant deposit insurance fund  
3 to the fund's designated reserve ratio as of the date  
4 the bank provides a written notice under subsection  
5 (a)(1).

6 “(2) PROCEDURES.—The Corporation shall pre-  
7 scribe, by regulation, procedures for assessing any  
8 exit fee under this subsection.

9 “(f) TEMPORARY INSURANCE OF DEPOSITS INSURED  
10 AS OF TERMINATION.—

11 “(1) TRANSITION PERIOD.—The insured depos-  
12 its of each depositor in a State bank or a national  
13 bank on the effective date of the voluntary termi-  
14 nation of the bank's insured status, less all subse-  
15 quent withdrawals from any deposits of such deposi-  
16 tor, shall continue to be insured for a period of not  
17 less than 6 months and not more than 2 years, as  
18 determined by the Corporation. During such period,  
19 no additions to any such deposits, and no new de-  
20 posits in the depository institution made after the ef-  
21 fective date of such termination shall be insured by  
22 the Corporation.

23 “(2) TEMPORARY ASSESSMENTS; OBLIGATIONS  
24 AND DUTIES.—During the period specified in para-  
25 graph (1) with respect to any bank, the bank shall

1 continue to pay assessments under section 7 as if  
2 the bank were an insured depository institution. The  
3 bank shall, in all other respects, be subject to the  
4 authority of the Corporation and the duties and obli-  
5 gations of an insured depository institution under  
6 this Act during such period, and in the event that  
7 the bank is closed due to an inability to meet the de-  
8 mands of the bank's depositors during such period,  
9 the Corporation shall have the same powers and  
10 rights with respect to such bank as in the case of  
11 an insured depository institution.

12 “(g) ADVERTISEMENTS.—

13 “(1) IN GENERAL.—A bank that voluntarily  
14 terminates the bank's insured status under this sec-  
15 tion shall not advertise or hold itself out as having  
16 insured deposits, except that the bank may advertise  
17 the temporary insurance of deposits under sub-  
18 section (f) if, in connection with any such advertise-  
19 ment, the advertisement also states with equal prom-  
20 inence that additions to deposits and new deposits  
21 made after the effective date of the termination are  
22 not insured.

23 “(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS,  
24 AND SECURITIES.—Any certificate of deposit or  
25 other obligation or security issued by a State bank

1 or a national bank after the effective date of the vol-  
2 untary termination of the bank's insured status  
3 under this section shall be accompanied by a con-  
4 spicuous, prominently displayed notice that such cer-  
5 tificate of deposit or other obligation or security is  
6 not insured under this Act.

7 “(h) NOTICE REQUIREMENTS.—

8 “(1) NOTICE TO THE CORPORATION.—The no-  
9 tice required under subsection (a)(1)(A) shall be in  
10 such form as the Corporation may require.

11 “(2) NOTICE TO DEPOSITORS.—The notice re-  
12 quired under subsection (a)(1)(B) shall be—

13 “(A) sent to each depositor's last address  
14 of record with the bank; and

15 “(B) in such manner and form as the Cor-  
16 poration finds to be necessary and appropriate  
17 for the protection of depositors.”.

18 (3) DEFINITION.—Section 19(b)(1)(A)(i) of the  
19 Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is  
20 amended after “such Act” by inserting “, or any  
21 wholesale financial institution as defined in section  
22 9B of this Act”.

23 (c) REPORTS ON DISCOUNTS AND ADVANCES TO  
24 WHOLESALE FINANCIAL INSTITUTIONS.—Section 10B of

1 the Federal Reserve Act (12 U.S.C. 347(b)) is amended  
2 by adding at the end the following new subsection:

3 “(c) REPORTS ON DISCOUNTS AND ADVANCES TO  
4 WHOLESALE FINANCIAL INSTITUTIONS.—

5 “(1) IN GENERAL.—The Board shall submit a  
6 report to the Congress at the end of any year in  
7 which any wholesale financial institution has ob-  
8 tained a discount, advance, or other extension of  
9 credit from a Federal reserve bank.

10 “(2) CONTENTS.—Any report submitted under  
11 paragraph (1) shall explain the circumstances and  
12 need for any discount, advance, or other extension of  
13 credit to a wholesale financial institution during the  
14 period covered by the report, including the type and  
15 amount of credit extended and the amount of credit  
16 remaining outstanding as of the date of the report.”.

## 17 **Subtitle C—Financial Activities**

### 18 **SEC. 121. FINANCIAL ACTIVITIES.**

19 Section 4(c)(8) of the Bank Holding Company Act  
20 of 1956 (12 U.S.C. 1843(c)(8)) is amended—

21 (1) by striking “shares of any company” and all  
22 that follows through “for a bank holding company to  
23 provide” and inserting “shares of any company the  
24 activities of which the Board after due notice has de-  
25 termined (by order, regulation, or advisory opinion)

1 to be financial in nature or incidental to such finan-  
2 cial activities. In determining whether an activity is  
3 financial in nature or incidental to financial activi-  
4 ties, the Board shall take into account changes or  
5 reasonably expected changes in the marketplace in  
6 which financial services holding companies compete  
7 as well as changes or reasonably expected changes  
8 in the technology by which these services are deliv-  
9 ered. In addition, the Board shall take into account  
10 activities considered financial activities or banking or  
11 financial operations for purposes of the regulation  
12 of the Board designated as 'Regulation K' (12  
13 C.F.R. 211.23 (f)(5)(iii)(B)) as in effect on the date  
14 of the enactment of the Financial Services Competi-  
15 tiveness and Regulatory Relief Act of 1995. Any ac-  
16 tivity that the Board has determined, by order or  
17 regulation that is in effect on such date to be so  
18 closely related to banking or managing or controlling  
19 banks as to be a proper incident thereto shall be  
20 deemed to be of a financial nature for purposes of  
21 this paragraph without further action by the Board  
22 (subject to the same terms and conditions contained  
23 in such order or regulation, unless modified by the  
24 Board), but for purposes of this subsection it shall  
25 not be closely related to banking or managing or



1 controlling banks or financial in nature or incidental  
 2 to a financial activity for a financial services holding  
 3 company to provide”;

4 (2) in the 3d sentence, by inserting “and be-  
 5 tween activities commenced by affiliates of different  
 6 classes of banks” before the period at the end; and

7 (3) by striking the 2d sentence.

8 **SEC. 122. NO PRIOR APPROVAL REQUIRED FOR WELL CAP-**  
 9 **ITALIZED AND WELL MANAGED FINANCIAL**  
 10 **SERVICES HOLDING COMPANIES.**

11 Section 4(j) of the Bank Holding Company Act of  
 12 1956 (12 U.S.C. 1843(j)) is amended—

13 (1) in paragraph (1), by striking “No” and in-  
 14 serting “Except as provided in paragraph (3) or sec-  
 15 tion 10(b)(3), no”; and

16 (2) by adding at the end the following new  
 17 paragraphs:

18 “(3) NO NOTICE REQUIRED FOR CERTAIN  
 19 TRANSACTIONS.—Notwithstanding paragraph (1), no  
 20 notice under subsection (c)(8) or (a)(2)(B) is re-  
 21 quired for a proposal by a financial services holding  
 22 company to engage in any activity (other than an ac-  
 23 tivity described in subparagraph (A) or (B) of sec-  
 24 tion 10(a)(1)) or acquire or retain the shares or as-

1 sets of any company (other than a securities affili-  
2 ate) if the proposal qualifies under paragraph (4).

3 “(4) CRITERIA FOR STATUTORY APPROVAL.—A  
4 proposal qualifies under this paragraph if all of the  
5 following criteria are met:

6 “(A) FINANCIAL CRITERIA.—Both before  
7 and immediately after the proposed trans-  
8 action—

9 “(i) the acquiring financial services  
10 holding company is well capitalized;

11 “(ii) the lead depository institution of  
12 such holding company is well capitalized;

13 “(iii) well capitalized depository insti-  
14 tutions control at least 80 percent of the  
15 aggregate total risk-weighted assets of de-  
16 pository institutions controlled by such  
17 holding company; and

18 “(iv) no depository institution con-  
19 trolled by such holding company is  
20 undercapitalized.

21 “(B) MANAGERIAL CRITERIA.—

22 “(i) WELL MANAGED.—At the time of  
23 the transaction, the acquiring financial  
24 services holding company, the lead deposi-  
25 tory institution of such holding company,

1 and depository institutions that control at  
2 least 80 percent of the aggregate total  
3 risk-weighted assets of depository institu-  
4 tions controlled by such holding company  
5 are well managed.

6 “(ii) LIMITATION ON POORLY MAN-  
7 AGED INSTITUTIONS.—No depository insti-  
8 tution which is controlled by the acquiring  
9 financial services holding company has re-  
10 ceived any of the lowest 2 composite rat-  
11 ings at the later of the institution’s most  
12 recent examination or subsequent review.

13 “(iii) RECENTLY ACQUIRED INSTITU-  
14 TIONS.—Depository institutions acquired  
15 by the financial services holding company  
16 during the 12-month period ending on the  
17 date of the proposed transaction may be  
18 excluded for purposes of clause (ii) if—

19 “(I) the financial services holding  
20 company has developed a plan accept-  
21 able to the appropriate Federal bank-  
22 ing agency for the institution to re-  
23 store the capital and management of  
24 the institution; and

1           “(II) all such depository institu-  
2           tions represent, in the aggregate, less  
3           than 25 percent of the total risk-  
4           weighted assets of all depository insti-  
5           tutions controlled by the financial  
6           services holding company.

7           “(C) ACTIVITIES PERMISSIBLE.—Following  
8           consummation of the proposed transaction, the  
9           financial services holding company engages di-  
10          rectly or through a subsidiary solely in—

11           “(i) activities that are permissible  
12           under subsection (c)(8), as determined by  
13           the Board by any regulation, order, or ad-  
14           visory opinion under such subsection that  
15           is in effect at the time of the proposed  
16           transaction, subject to all of the restric-  
17           tions, terms, and conditions of such sub-  
18           section and such regulation, order, or advi-  
19           sory opinion; and

20           “(ii) such other activities as are other-  
21           wise permissible under this Act, subject to  
22           the restrictions, terms and conditions, in-  
23           cluding any prior notice or approval re-  
24           quirements, provided in this Act.

25          “(D) SIZE OF ACQUISITION.—

1           “(i) ASSET SIZE.—The book value of  
2           the total risk-weighted assets acquired does  
3           not exceed 10 percent of the consolidated  
4           total risk-weighted assets of the acquiring  
5           financial services holding company.

6           “(ii) CONSIDERATION.—The gross  
7           consideration to be paid for the securities  
8           or assets does not exceed 15 percent of the  
9           consolidated tier 1 capital of the acquiring  
10          financial services holding company.

11          “(E) NOTICE NOT OTHERWISE WAR-  
12          RANTED.—For proposals described in para-  
13          graph (5)(B), the Board has not, before the  
14          conclusion of the period described in such para-  
15          graph, advised the financial services holding  
16          company that a notice under paragraph (1) is  
17          required.

18          “(5) NOTIFICATION.—

19               “(A) COMMENCEMENT OF ACTIVITIES AP-  
20               PROVED BY RULE.—A financial services holding  
21               company that qualifies under paragraph (4)  
22               and proposes to engage de novo, directly or  
23               through a subsidiary, in any activity that is per-  
24               missible under subsection (c)(8), as determined

1 by the Board by regulation, may commence that  
2 activity without prior notice to the Board.

3 “(B) SUBSEQUENT NOTICE.—A financial  
4 services holding company that commences an  
5 activity under subsection (c)(8) without prior  
6 notice to the Board shall provide written notice  
7 to the Board no later than 10 business days  
8 after commencing the activity.

9 “(C) ACTIVITIES PERMITTED BY ORDER  
10 AND ACQUISITIONS.—

11 “(i) IN GENERAL.—At least 12 busi-  
12 ness days prior to commencing any activity  
13 (other than an activity described in sub-  
14 paragraph (A)) or acquiring shares or as-  
15 sets of any company in a proposal that  
16 qualifies under paragraph (4), the financial  
17 services holding company shall provide  
18 written notice to the Board of the pro-  
19 posal, unless the Board determines that no  
20 notice or a shorter notice period is appro-  
21 priate.

22 “(ii) DESCRIPTION OF PROPOSED AC-  
23 TIVITIES.—A notice under clause (i) shall  
24 include a description of the proposed ac-

1           activities and the terms of any proposed ac-  
2           quisition.

3           “(6) ADJUSTMENT OF AMOUNTS.—The Board  
4           may, by regulation, adjust the amounts and the  
5           manner in which the percentage of depository insti-  
6           tutions is calculated under subparagraph (B)(i),  
7           (B)(iii)(II), or (D) of paragraph (4) if the Board de-  
8           termines that any such adjustment is consistent with  
9           safety and soundness and the purposes of this Act.

10          “(7) EXPEDITED PROCEDURE FOR NEW ACTIVI-  
11          TIES.—

12                 “(A) EXPEDITED PREACQUISITION RE-  
13                 VIEW.—After the end of the 12-day period re-  
14                 ferred to in paragraph (5)(C) and subject to  
15                 any final ruling under subparagraph (B), a fi-  
16                 nancial services holding company may acquire a  
17                 company engaged in activities that the company  
18                 believes are financial in nature for purposes of  
19                 subsection (c)(8) and that the Board has not  
20                 previously reviewed under such subsection if—

21                         “(i) the proposal qualifies under all of  
22                         the criteria in paragraph (4) other than  
23                         paragraph (4)(C);

24                         “(ii) the financial services holding  
25                         company provides the notice required

1 under paragraph (5)(C), and includes with  
2 such notice an explanation of the facts and  
3 circumstances that provide a reasonable  
4 basis for concluding that the proposed ac-  
5 tivities are financial in nature or incidental  
6 to such financial activities; and

7 “(iii) before the end of such 12-day  
8 period, the Board has not—

9 “(I) required a notice under  
10 paragraph (1) with respect to the pro-  
11 posed transaction; or

12 “(II) advised the financial serv-  
13 ices holding company that the com-  
14 pany has failed to provide a reason-  
15 able basis for concluding that the pro-  
16 posed activities are financial in nature  
17 or incidental to such financial activi-  
18 ties.

19 “(B) POSTACQUISITION REVIEW.—

20 “(i) NOTICE PROCEDURE.—A finan-  
21 cial services holding company which is per-  
22 mitted to make an acquisition under this  
23 paragraph shall file a notice with the  
24 Board in accordance with paragraph (1)  
25 before the end of the 30-day period begin-



1           ning on the date of the consummation of  
2           the acquisition.

3           “(ii) LIMITED REVIEW.—The Board’s  
4           review of a postconsummation notice re-  
5           quired under this subparagraph shall be  
6           limited to determining whether the pro-  
7           posed activities are permissible under sub-  
8           section (c)(8), including whether the pro-  
9           posal meets the criteria in paragraph  
10          (2)(A).

11          “(iii) CONDITIONAL ACTION.—No pro-  
12          vision of this paragraph shall be construed  
13          as limiting in any way the authority of the  
14          Board under this section to impose condi-  
15          tions on the conduct of any activity or the  
16          ownership of any company.

17          “(iv) DIVESTITURE OF IMPERMIS-  
18          SIBLE ACTIVITIES.—If the Board deter-  
19          mines that any proposed activity is not  
20          permissible under subsection (c)(8), the fi-  
21          nancial services holding company shall ter-  
22          minate the activity or divest the company  
23          acquired in reliance on this paragraph be-  
24          fore the end of the 2-year period beginning  
25          on the date of such determination.

1           “(C) INITIAL DECISION NOT PREJUDICIAL  
2           TO SUBSEQUENT DETERMINATION.—A decision  
3           by the Board under subparagraph (A) not to  
4           require a notice under paragraph (1) during the  
5           12-day period referred to in such subparagraph  
6           shall not prejudice the Board’s decision under  
7           subparagraph (B).”.

8   **SEC. 123. STREAMLINED EXAMINATION AND REPORTING**  
9                   **REQUIREMENTS FOR ALL FINANCIAL SERV-**  
10                   **ICES HOLDING COMPANIES.**

11       Section 5(c) of the Bank Holding Company Act of  
12   1956 (12 U.S.C. 1844(c)) is amended to read as follows—

13       “(c) REPORTS AND EXAMINATIONS.—

14       “(1) PURPOSES.—

15       “(A) IN GENERAL.—The purpose of this  
16       subsection is to authorize the Board, through  
17       reports and examinations, to gather information  
18       from a financial services holding company and  
19       the subsidiaries of any such holding company  
20       regarding the structure, activities, and financial  
21       condition of the financial services holding com-  
22       pany and such subsidiaries so that the Board  
23       can monitor risks within the holding company  
24       system that could adversely affect any deposi-  
25       tory institution subsidiary of the holding com-

pany and may monitor and enforce compliance with this Act.

“(B) PURPOSE NOT TO IMPOSE ADDITIONAL BURDENS ON HOLDING COMPANIES.—It is the intended purpose of this subsection that the Board shall—

“(i) exercise the Board’s authority to collect information under this section in a manner that is the least burdensome to financial services holding companies and the subsidiaries of such companies; and

“(ii) rely, to the fullest extent possible, on reports prepared for and examinations conducted by or for other Federal and State supervisors.

“(C) PURPOSE TO REQUIRE CAREFULLY TAILORED EXAMINATIONS.—It is the intended purpose of this subsection that the Board shall tailor the focus and scope of any examination under this section to a financial services holding company or to any subsidiary of such company which, because of financial conditions, activities, operations of such subsidiary, the transactions between such subsidiary and other affiliates, or the size of any such subsidiary poses a potential

1 material risk to a depository institution subsidi-  
2 ary of such holding company.

3 “(2) REPORTS.—

4 “(A) IN GENERAL.—The Board from time  
5 to time may require any financial services hold-  
6 ing company and any subsidiary of such com-  
7 pany to submit reports under oath to keep the  
8 Board informed as to—

9 “(i) the company’s or the subsidiary’s  
10 activities, financial condition, policies, sys-  
11 tems for monitoring and controlling finan-  
12 cial and operational risks, and transactions  
13 with depository institution subsidiaries of  
14 the holding company; and

15 “(ii) the extent to which the company  
16 or subsidiary has complied with the provi-  
17 sions of this Act and regulations prescribed  
18 and orders issued under this Act.

19 “(B) USE OF EXISTING REPORTS.—

20 “(i) IN GENERAL.—The Board shall,  
21 to the fullest extent possible, accept re-  
22 ports in fulfillment of the Board’s report-  
23 ing requirements under this paragraph  
24 that a financial services holding company  
25 or any subsidiary of such company has

1           been required to provide to other Federal  
2           and State supervisors or to appropriate  
3           self-regulatory organizations.

4           “(ii) AVAILABILITY.—A financial serv-  
5           ices holding company or a subsidiary of  
6           such company shall provide to the Board,  
7           at the request of the Board, a report re-  
8           ferred to in clause (i).

9           “(3) EXAMINATIONS.—

10           “(A) LIMITED USE OF EXAMINATION AU-  
11           THORITY.—The Board may make examinations  
12           of each financial services holding company and  
13           each subsidiary of such company in order to—

14           “(i) inform the Board of the nature of  
15           the operations and financial condition of  
16           the financial services holding company and  
17           such subsidiaries;

18           “(ii) inform the Board of the—

19           “(I) financial and operational  
20           risks within the financial services  
21           holding company system that may af-  
22           fect any depository institution owned  
23           by such holding company; and

24           “(II) the systems of the holding  
25           company and such subsidiaries for

1 monitoring and controlling those  
2 risks; and

3 “(iii) monitor compliance with the  
4 provisions of this Act and those governing  
5 transactions and relationships between any  
6 depository institution controlled by a finan-  
7 cial services holding company and any of  
8 the company’s other subsidiaries.

9 “(B) RESTRICTED FOCUS OF EXAMINA-  
10 TIONS.—The Board shall, to the fullest extent  
11 possible, limit the focus and scope of any exam-  
12 ination of a financial services holding company  
13 to—

14 “(i) the holding company; and

15 “(ii) to any subsidiary (other than a  
16 depository institution subsidiary) of the  
17 holding company which, because of the  
18 size, condition, or activities of the subsidi-  
19 ary, the nature or size of transactions be-  
20 tween such subsidiary and any depository  
21 institution affiliate, or the centralization of  
22 functions within the holding company sys-  
23 tem, could have a materially adverse effect  
24 on the safety and soundness of any deposi-

1           tory institution affiliate of the subsidiary  
2           or of the holding company.

3           “(C) DEFERENCE TO BANK EXAMINA-  
4           TIONS.—The Board shall, to the fullest extent  
5           possible, use the report of examinations of de-  
6           pository institutions made by the Comptroller of  
7           the Currency, the Federal Deposit Insurance  
8           Corporation, the Office of Thrift Supervision or  
9           the appropriate State depository institution su-  
10          pervisory authority for the purposes of this sec-  
11          tion.

12          “(D) DEFERENCE TO OTHER EXAMINA-  
13          TIONS.—The Board shall, to the fullest extent  
14          possible, use the reports of examination made  
15          of—

16               “(i) any registered broker or dealer by  
17               or on behalf of the Securities Exchange  
18               Commission, and

19               “(ii) any other subsidiary that the  
20               Board finds to be comprehensively super-  
21               vised under relevant Federal or State law  
22               by a Federal or state agency or authority.

23          “(E) CONFIDENTIALITY OF REPORTED IN-  
24          FORMATION.—

1           “(i) IN GENERAL.—Notwithstanding  
2           any other provision of law, the Board shall  
3           not be compelled to disclose any informa-  
4           tion required to be reported under this  
5           paragraph, or any information supplied to  
6           the Board by any domestic or foreign regu-  
7           latory agency, that relates to the financial  
8           or operational condition of any financial  
9           services holding company or any subsidiary  
10          of such company.

11          “(ii) COMPLIANCE WITH REQUESTS  
12          FOR INFORMATION.—No provision of this  
13          subparagraph shall be construed as author-  
14          izing the Board to withhold information  
15          from Congress, or preventing the Board  
16          from complying with a request for informa-  
17          tion from any other Federal department or  
18          agency for purposes within the scope of  
19          such department’s or agency’s jurisdiction,  
20          or from complying with an order of a court  
21          of competent jurisdiction in an action  
22          brought by the United States or the  
23          Board.

24          “(iii) COORDINATION WITH OTHER  
25          LAW.—For purposes of section 552 of title



1           5, United States Code, this subparagraph  
 2           shall be considered to be a statute de-  
 3           scribed in subsection (b)(3)(B) of such sec-  
 4           tion.

5           “(iv) DESIGNATION OF CONFIDENTIAL  
 6           INFORMATION.—In prescribing regulations  
 7           to carry out the requirements of this sub-  
 8           section, the Board shall designate informa-  
 9           tion described in or obtained pursuant to  
 10          this paragraph as confidential information.

11          “(F) COSTS.—The cost of any examination  
 12          conducted by the Board under this section may  
 13          be assessed against, and made payable by, such  
 14          holding company.”.

15 **SEC. 124. HOLDING COMPANY SUPERVISION FOR FINAN-**  
 16 **CIAL SERVICES HOLDING COMPANIES EN-**  
 17 **GAGED PRIMARILY IN NONBANKING ACTIVI-**  
 18 **TIES.**

19          Section 5 of the Bank Holding Company Act of 1956  
 20          (12 U.S.C. 1844) is amended by adding at the end the  
 21          following new subsection:

22          “(g) REDUCED SUPERVISION OF COMPANIES CON-  
 23          TROLLING PRINCIPALLY NONDEPOSITORY INSTITU-  
 24          TIONS.—

25          “(1) ELECTION.—

1           “(A) IN GENERAL.—Any financial services  
2           holding company that qualifies under paragraph  
3           (2) may make an election to be governed by the  
4           approval, capital, reporting and examination re-  
5           quirements of paragraphs (3), (4), (5) and (6)  
6           by—

7                   “(i) filing a written notice of such  
8                   election with the Board; and

9                   “(ii) if applicable, providing a written  
10                  guarantee to the Federal Deposit Insur-  
11                  ance Corporation pursuant to paragraph  
12                  (2).

13           “(B) EFFECTIVE PERIOD OF ELECTION.—  
14           An election under subparagraph (A) shall re-  
15           main in effect—

16                   “(i) so long as the financial services  
17                   holding company continues to qualify  
18                   under paragraph (2); or

19                   “(ii) until the financial services hold-  
20                  ing company revokes the election.

21           “(2) CRITERIA FOR ELECTION.—A financial  
22           services holding company may make an election  
23           under paragraph (1) if the company meets all of the  
24           following criteria:

1           “(A) COMPANY PRINCIPALLY CONTROLS  
2           NONDEPOSITORY COMPANIES.—

3           “(i) FINANCIAL SERVICES HOLDING  
4           COMPANIES WITH DEPOSITORY INSTITU-  
5           TIONS.—In the case of a financial services  
6           holding company (other than an invest-  
7           ment bank holding company), the consoli-  
8           dated total risk-weighted assets of all de-  
9           pository institutions and foreign banks (as  
10          defined in section 1(b)(7) of the Inter-  
11          national Banking Act of 1978) controlled  
12          by the financial services holding com-  
13          pany—

14                 “(I) constitute less than 10 per-  
15                 cent of the consolidated total risk-  
16                 weighted assets of such company; and

17                 “(II)         are         less         than  
18                 \$5,000,000,000.

19           “(ii) INVESTMENT BANK HOLDING  
20           COMPANIES.—In the case of an investment  
21           bank holding company, the consolidated  
22           total risk-weighted assets of all wholesale  
23           financial institutions controlled by the in-  
24           vestment bank holding company—

1                   “(I) constitute less than 25 per-  
2                   cent of the consolidated total risk-  
3                   weighted assets of such company; and

4                   “(II)       are       less       than  
5                   \$15,000,000,000.

6                   “(iii) INFLATION ADJUSTMENT.—The  
7                   dollar limitation contained in clauses  
8                   (i)(II) and (ii)(II) shall be adjusted annu-  
9                   ally after December 31, 1995, by the an-  
10                  nual percentage increase in the Consumer  
11                  Price Index for Urban Wage Earners and  
12                  Clerical Workers published by the Bureau  
13                  of Labor Statistics.

14                  “(iv) AUTHORITY TO INCREASE LIM-  
15                  ITS.—The Board may increase any the  
16                  percentages referred to in clauses (i)(I)  
17                  and (ii)(I) and the dollar amounts de-  
18                  scribed in clauses (i)(II) and (ii)(II) as the  
19                  Board may determine to be appropriate.

20                  “(B) WELL CAPITALIZED INSTITUTIONS.—  
21                  Each depository institution controlled by the fi-  
22                  nancial services holding company is well capital-  
23                  ized.

24                  “(C) WELL MANAGED INSTITUTIONS.—

1           “(i) IN GENERAL.—Each depository  
2 institution controlled by the financial serv-  
3 ices holding company received a CAMEL  
4 composite rating of 1 or 2 (or an equiva-  
5 lent rating under an equivalent rating sys-  
6 tem) in the most recent examination of  
7 such institution.

8           “(ii) EXCLUSION FOR NEWLY AC-  
9 QUIRED INSTITUTIONS.—A depository in-  
10 stitution acquired by a financial services  
11 holding company during the 12-month pe-  
12 riod ending on the date of the election by  
13 such company under paragraph (1) may be  
14 excluded for purposes of clause (i) if the fi-  
15 nancial services holding company has de-  
16 veloped a plan acceptable to the appro-  
17 priate Federal banking agency (for such  
18 institution) to restore the capital and man-  
19 agement of the institution.

20           “(D) HOLDING COMPANY GUARANTEE.—

21           “(i) IN GENERAL.—The financial  
22 services holding company provides a writ-  
23 ten guarantee acceptable to the Federal  
24 Deposit Insurance Corporation to maintain  
25 the capital levels of each insured deposi-

1 tory institution controlled by the financial  
2 services holding company at not less than  
3 the levels required for such institution to  
4 remain well capitalized.

5 “(ii) LIMITATION ON LIABILITY.—The  
6 liability of a financial services holding com-  
7 pany under a guarantee provided under  
8 this subparagraph shall not exceed an  
9 amount equal to 10 percent of the total  
10 risk-weighted assets of the insured deposi-  
11 tory institution, measured as of the date  
12 that the institution becomes  
13 undercapitalized.

14 “(iii) DURATION OF GUARANTEE.—  
15 Notwithstanding paragraph (1), a financial  
16 services holding company that has elected  
17 treatment under this subsection shall con-  
18 tinue to be bound by the guarantee made  
19 under this subsection until released in ac-  
20 cordance with this subparagraph.

21 “(iv) RELEASE FROM LIABILITY.—  
22 The Board shall release a financial services  
23 holding company from the guarantee appli-  
24 cable with respect to any depository insti-  
25 tution subsidiary of such company—

1           “(I) upon the written request of  
2           the financial services holding company  
3           to revoke the company’s election  
4           under paragraph (1) if the Board de-  
5           termines that each depository institu-  
6           tion controlled by the financial serv-  
7           ices holding company is well capital-  
8           ized and well managed at the time of  
9           such revocation;

10           “(II) in the case of a financial  
11           services holding company which no  
12           longer meets the requirements of sub-  
13           paragraph (A), upon a determination  
14           by the Board that each depository in-  
15           stitution controlled by the financial  
16           services holding company is well cap-  
17           italized and well managed;

18           “(III) upon the written request  
19           of the financial services holding com-  
20           pany following the divestiture of con-  
21           trol of the depository institution in a  
22           transaction that does not require Fed-  
23           eral assistance if the Board deter-  
24           mines that, immediately following the

1 divestiture, the depository institution  
2 is or will be well capitalized; or

3 “(IV) upon a determination by  
4 the Board, after consultation with the  
5 Federal Deposit Insurance Corpora-  
6 tion, that, subject to the limit on li-  
7 ability provided in clause (ii), the fi-  
8 nancial services holding company has  
9 fully performed under the guarantee.

10 “(E) RESPONSIVENESS TO COMMUNITY  
11 NEEDS.—The lead insured depository institu-  
12 tion subsidiary of the financial services holding  
13 company and insured depository institutions  
14 controlling at least 80 percent of the aggregate  
15 total risk-weighted assets of insured depository  
16 institutions controlled by the financial services  
17 holding company have achieved a ‘satisfactory  
18 record of meeting community credit needs’, or  
19 better, during the most recent examination of  
20 such insured depository institutions.

21 “(3) NO NOTICE OR APPROVAL REQUIRED FOR  
22 CERTAIN PURPOSES UNDER PARAGRAPHS (8), (13),  
23 OR (15) OF SECTION 4(C).—

24 “(A) IN GENERAL.—Notwithstanding  
25 paragraphs (8), (13), and, in the case of an in-



1 investment bank holding company, (15) of section  
2 4(c), a financial services holding company that  
3 has in effect an election under paragraph (1),  
4 and any subsidiary of such holding company,  
5 may, without prior notice to, or the approval of,  
6 the Board under paragraph (8), (13), or, in the  
7 case of an investment bank holding company,  
8 (15) of section 4(c), engage de novo in any ac-  
9 tivity, or acquire shares of any company en-  
10 gaged in any activity, if—

11 “(i) the Board has determined, by  
12 order or regulation in effect at the time  
13 the company or subsidiary commences to  
14 engage in such activity or acquire such  
15 shares, that the activity is permissible for  
16 a financial services holding company or a  
17 subsidiary of such company to engage in  
18 under paragraph (8) or (13) of section 4(c)  
19 (and regulations prescribed under such  
20 paragraphs); and

21 “(ii) the activity is conducted in com-  
22 pliance with all conditions and limitations  
23 applicable to such activity under any regu-  
24 lation, order, or advisory opinion pre-  
25 scribed or issued by the Board.

1           “(B) SUBSEQUENT NOTICE.—A financial  
2           services holding company that commences to  
3           engage in an activity, or makes an acquisition,  
4           in accordance with subparagraph (A) shall in-  
5           form the Board of such fact, in writing, not  
6           later than 10 days after commencing the activ-  
7           ity or consummating the acquisition.

8           “(4) CAPITAL.—

9           “(A) IN GENERAL.—The Board shall not  
10          (by regulation or order), directly or indirectly,  
11          establish or apply minimum capital require-  
12          ments to a financial services holding company  
13          which has in effect an election under paragraph  
14          (1) unless the Board concludes, on the basis of  
15          all information available to the Board, that the  
16          financial services holding company is not main-  
17          taining sufficient financial resources to meet  
18          fully any guarantee required under paragraph  
19          (2).

20          “(B) CRITERIA FOR CONSIDERATION.—For  
21          purposes of making a determination under sub-  
22          paragraph (A), the Board shall consider, in ad-  
23          dition to any other relevant considerations, the  
24          financial condition and the adequacy of the cap-  
25          ital of each of the depository institutions con-

1 trolled by the financial services holding com-  
2 pany.

3 “(5) REPORTS.—

4 “(A) IN GENERAL.—The reporting require-  
5 ments contained in subsection (c)(2) shall apply  
6 to a financial services holding company which  
7 qualifies under this subsection, to the extent  
8 provided by the Board.

9 “(B) EXEMPTIONS FROM REPORTING RE-  
10 QUIREMENTS.—

11 “(i) IN GENERAL.—The Board may,  
12 by regulation or order, exempt any com-  
13 pany or class of companies, under such  
14 terms and conditions and for such periods  
15 as the Board shall provide in such regula-  
16 tion or order, from the provisions of this  
17 paragraph and any regulations prescribed  
18 under this paragraph.

19 “(ii) CRITERIA FOR CONSIDER-  
20 ATION.—In granting any exemption under  
21 clause (i), the Board shall consider, among  
22 other factors—

23 “(I) whether information of the  
24 type required under this paragraph is  
25 available from a supervisory agency

1 (as defined in section 1101(7) of the  
2 Right to Financial Privacy Act of  
3 1978), the Commodity Futures Trad-  
4 ing Commission, or a foreign regu-  
5 latory body of a similar type;

6 “(II) the primary business of the  
7 company; and

8 “(III) the nature and extent of  
9 domestic or foreign regulations of the  
10 company’s activities.

11 “(6) EXAMINATIONS.—

12 “(A) LIMITED USE OF EXAMINATION AU-  
13 THORITY FOR FINANCIAL SERVICES HOLDING  
14 COMPANIES.—The Board shall not examine,  
15 under this section, any financial services hold-  
16 ing company described in paragraph (2)(A)(i)  
17 for which an election is in effect under para-  
18 graph (1) or any subsidiary (other than a de-  
19 pository institution) of such holding company  
20 unless—

21 “(i) the Board determines, on the  
22 basis of all information available to the  
23 Board, that—

24 “(I) the operations or activities  
25 of the financial services holding com-

1           pany or any subsidiary of such com-  
2           pany, or any transaction involving  
3           such company or subsidiary and an  
4           affiliated depository institution, may  
5           pose a material risk to the safety and  
6           soundness of any depository institu-  
7           tion owned by such holding company;  
8           or

9                   “(II) the financial services hold-  
10           ing company does not appear to have  
11           sufficient resources to meet the guar-  
12           antee required under paragraph (2);  
13           or

14                   “(ii) the Board is unable to accom-  
15           plish the purposes described in subsection  
16           (c)(3)(A) without such examinations.

17                   “(B) LIMITED USE OF EXAMINATION AU-  
18           THORITY FOR INVESTMENT BANK HOLDING  
19           COMPANIES.—The Board shall not examine,  
20           under this section, any investment bank holding  
21           company described in paragraph (2)(A)(ii)  
22           which has an election in effect under paragraph  
23           (1) or any subsidiary (other than a depository  
24           institution) of such holding company unless—

1 “(i) the Board determines that the op-  
2 erations or activities of the investment  
3 bank holding company or any subsidiary of  
4 such company, or any transaction involving  
5 such company or subsidiary and an affili-  
6 ated depository institution, may pose a ma-  
7 terial risk to the safety and soundness of  
8 any depository institution owned by such  
9 holding company; or

10 “(ii) the Board is unable to determine  
11 from reports the nature of the operations,  
12 financial condition, activities, or effective-  
13 ness of the risk management systems of  
14 the investment bank holding company or  
15 any subsidiary of such company, or to as-  
16 sess compliance with the provisions of this  
17 Act and those governing transactions and  
18 relationships between any depository insti-  
19 tution controlled by the investment bank  
20 holding company and the investment bank  
21 holding company or any of such subsidi-  
22 aries.

23 “(C) RESTRICTED FOCUS AND DEFERENCE  
24 IN EXAMINATIONS.—The Board shall limit the  
25 focus and scope of any examination, under this

1 section, of a financial services holding company  
 2 or investment bank holding company for which  
 3 an election is in effect under paragraph (1) or  
 4 of any subsidiary (other than a depository insti-  
 5 tution) of such holding company and shall defer  
 6 to examinations conducted by the Securities Ex-  
 7 change Commission or other supervisors in ac-  
 8 cordance with subparagraphs (B), (C), and (D)  
 9 of subsection (c)(3).”.

10 **SEC. 125. CONVERSION OF UNITARY SAVINGS AND LOAN**  
 11 **HOLDING COMPANIES TO FINANCIAL SERV-**  
 12 **ICES HOLDING COMPANIES.**

13 The Bank Holding Company Act of 1956 (12 U.S.C.  
 14 1841 et seq.) is amended by inserting after section 5 the  
 15 following new section:

16 **“SEC. 6. CONVERSION OF UNITARY SAVINGS AND LOAN**  
 17 **HOLDING COMPANIES TO FINANCIAL SERV-**  
 18 **ICES HOLDING COMPANIES.**

19 “(a) STREAMLINED PROCEDURE FOR CONVER-  
 20 SION.—

21 “(1) IN GENERAL.—During the 18-month pe-  
 22 riod beginning on the date of the enactment of the  
 23 Financial Services Competitiveness and Regulatory  
 24 Relief Act of 1995, no approval shall be required  
 25 under section 3(a) or paragraph (8) or (13) of sec-

1       tion 4(c) for any qualified savings and loan holding  
2       company to become a financial services holding com-  
3       pany for any company that, both prior to January  
4       1, 1995, and on the date of enactment of the Finan-  
5       cial Services Competitiveness and Regulatory Relief  
6       Act of 1995, is a savings and loan holding company  
7       if the requirements of paragraph (2) are met.

8               “(2) ELIGIBILITY REQUIREMENTS.—A qualified  
9       savings and loan holding company shall be eligible to  
10      become a financial services holding company pursu-  
11      ant to paragraph (1) if—

12               “(A) the company becomes a financial  
13      services holding company as the result of the  
14      conversion of a savings association controlled by  
15      such company as of the date of enactment of  
16      the Financial Services Competitiveness and  
17      Regulatory Relief Act of 1995 into a bank;

18               “(B) the company is adequately capitalized  
19      before and immediately after the conversion re-  
20      ferred to in subparagraph (A);

21               “(C) all depository institutions controlled  
22      by such company are well capitalized before and  
23      immediately after such conversion;



1           “(D) all depository institutions controlled  
2           by such company are well managed before the  
3           conversion;

4           “(E) the Board would not be prohibited  
5           under any provision of section 3(d) from ap-  
6           proving the transaction;

7           “(F) the activities of the company and of  
8           each subsidiary of the company comply with  
9           this Act (and regulations prescribed under this  
10          Act); and

11          “(G) the company provides the Board with  
12          at least 30 days written notice of the proposed  
13          conversion, and, before the expiration of such  
14          30-day period, the Board has not objected to  
15          the company becoming a financial services hold-  
16          ing company based on the criteria contained in  
17          this subsection.

18          “(3) QUALIFIED SAVINGS AND LOAN HOLDING  
19          COMPANY DEFINED.—For purposes of this sub-  
20          section, the term ‘qualified savings and loan holding  
21          company’ means any company which became a sav-  
22          ings and loan holding company before January 1,  
23          1995, and is a savings and loan holding company as  
24          of the date of the enactment of the Financial Serv-

1        ices Competitiveness and Regulatory Relief Act of  
2        1995.

3        “(b) LIMITED RETENTION OF EXISTING INVEST-  
4        MENTS.—Any holding company which converts to a finan-  
5        cial services holding company in accordance with sub-  
6        section (a) may retain direct or indirect ownership or con-  
7        trol of voting shares of any company as provided in, and  
8        subject to, section 4(k) if—

9                “(1) the holding company controlled 1 or more  
10        savings associations in accordance with section  
11        10(c)(3) of the Home Owners Loan Act before Jan-  
12        uary 1, 1995, and as of the date of the enactment  
13        of the Financial Services Competitiveness and Regu-  
14        latory Relief Act of 1995;

15                “(2) the investment in voting shares and the fi-  
16        nancial services holding company meet the require-  
17        ments of section 4(k) (other than paragraph  
18        (1)(A)(iii) of such section); and

19                “(3) more than 75 percent of the revenues of  
20        the financial services holding company for each of  
21        the 2 calendar years before the date such company  
22        became a financial services holding company involved  
23        securities activities described in subparagraphs (A)  
24        and (B) of section 10(a)(1) and activities that the

1 Board has determined to be permissible under sec-  
2 tion 4(c)(8).

3 “(c) CONVERSION FEE.—No qualified savings and  
4 loan holding company may become a financial services  
5 holding company pursuant to this section unless the Board  
6 has received, from such company, full payment of a fee  
7 which the Board shall impose in accordance with section  
8 5(h).”.

9 **SEC. 126. FINANCIAL SERVICES ADVISORY COMMITTEE.**

10 (a) ESTABLISHMENT.—There is hereby established  
11 the Financial Services Advisory Committee (hereinafter in  
12 this section referred to as the “Committee”).

13 (b) MEMBERSHIP.—

14 (1) IN GENERAL.—The Committee shall consist  
15 of 9 members, appointed as follows from among in-  
16 dividuals who are not officers or employees of the  
17 Federal Government and who are especially qualified  
18 to serve on such committee by virtue of their edu-  
19 cation, training, or experience:

20 (A) 1 member appointed by the Secretary  
21 of the Treasury.

22 (B) 2 members appointed by the Comptrol-  
23 ler of the Currency.

24 (C) 2 members appointed by the Director  
25 of the Office of Thrift Supervision.

1 (D) 2 members appointed by the Board of  
2 Governors of the Federal Reserve System.

3 (E) 2 members appointed by the Board of  
4 Directors of the Federal Deposit Insurance Cor-  
5 poration.

6 (2) REPRESENTATION OF SMALL AND INDE-  
7 PENDENT DEPOSITORY INSTITUTIONS.—Of the  
8 members appointed under subparagraphs (B), (C),  
9 (D), and (E) of paragraph (1), 1 of the 2 members  
10 appointed under each such paragraph shall be ap-  
11 pointed from among individuals who are especially  
12 qualified to represent the interests of depository in-  
13 stitutions which—

14 (A) have total assets of less than  
15 \$500,000,000; or

16 (B) are not controlled by any depository  
17 institution holding company.

18 (c) VACANCIES.—Any vacancy on the Committee  
19 shall be filled in the same manner in which the original  
20 appointment was made.

21 (d) PAY AND EXPENSES.—Members of the Commit-  
22 tee shall serve without pay, but each member shall be re-  
23 imbursed for expenses incurred in connection with attend-  
24 ance of such members at meetings of the Committee by

1 the agency which appointed such member to the Commit-  
2 tee.

3 (e) TERMS.—Members shall be appointed for terms  
4 of 1 year.

5 (f) AUTHORITY OF THE COMMITTEE.—The Commit-  
6 tee may select a chairperson, vice chairperson, and sec-  
7 retary, and adopt methods of procedure, and shall have  
8 power—

9 (1) to confer with each Federal banking agency  
10 on general and special business conditions and regu-  
11 latory and other matters relating to the financial  
12 services industry in the United States and the im-  
13 pact of this Act, and the amendments made by this  
14 Act, on the financial service industry, especially with  
15 regard to depository institutions described in sub-  
16 section (b)(2); and

17 (2) to request information from, and to make  
18 recommendations to, each of the Federal banking  
19 agencies with respect to matters within the jurisdic-  
20 tion of such agency.

21 (g) MEETINGS.—The Committee shall meet at least  
22 2 times each year at the call of the chairperson or a major-  
23 ity of the members.

24 (h) REPORTS.—The Committee shall submit a semi-  
25 annual written report to the Committee on Banking and

1 Financial Services of the House and to the Committee on  
2 Banking, Housing, and Urban Affairs of the Senate. Such  
3 report shall describe the activities of the Committee for  
4 such semiannual period and contain such recommenda-  
5 tions as the Committee considers appropriate.

6 (i) PROVISION OF STAFF AND OTHER RESOURCES.—  
7 Each of the Federal banking agencies shall provide the  
8 Committee with the use of such resources, including staff,  
9 as the Committee reasonably shall require to carry out its  
10 duties, including the preparation and submission of re-  
11 ports to Congress, under this section.

12 (j) DEFINITIONS.—For purposes of this section, the  
13 terms “insured depository institution” and “Federal bank-  
14 ing agencies” have the meaning given to such terms in  
15 section 3 of the Federal Deposit Insurance Act.

16 (k) FEDERAL ADVISORY COMMITTEE ACT DOES NOT  
17 APPLY.—The Federal Advisory Committee Act shall not  
18 apply to the Committee.

19 (l) SUNSET.—The Committee shall cease to exist 10  
20 years after the enactment of this section.

21 **SEC. 127. COORDINATION WITH STATE LAW.**

22 Except as specifically provided in section 109, no pro-  
23 vision of this Act, and no amendment made by this Act  
24 to any other provision of law, may be construed as super-  
25 seding any provision of the law of any State which imposes

1 additional requirements or establishes higher standards  
 2 for the safe and sound operation and condition of deposi-  
 3 tory institutions (as defined in section 3 of the Federal  
 4 Deposit Insurance Act) and the protection of consumers  
 5 than the requirements imposed or the standards estab-  
 6 lished under this Act and the amendments made by this  
 7 Act to other provisions of law (including capital standards  
 8 and other safeguards placed on affiliates).

9 **SEC. 128. CONFORMING AMENDMENTS TO THE BANK HOLD-**  
 10 **ING COMPANY ACT OF 1956.**

11 (a) SHORT TITLE; TABLE OF CONTENTS.—The first  
 12 section of the Bank Holding Company Act of 1956 (12  
 13 U.S.C. 1841 nt.) is amended to read as follows:

14 **“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

15 “(a) SHORT TITLE.—This Act may be cited as the  
 16 ‘Financial Services Holding Company Act of 1995’.

17 “(b) TABLE OF CONTENTS.—The table of contents  
 18 for this Act is as follows:

- “Sec. 1. Short title; table of contents.
- “Sec. 2. Definitions.
- “Sec. 3. Acquisition of bank shares or assets.
- “Sec. 4. Interests in nonbanking organizations.
- “Sec. 5. Administration.
- “Sec. 6. Conversion of unitary savings and loan holding companies to financial services holding companies.
- “Sec. 7. Reservation of rights to States.
- “Sec. 8. Penalties.
- “Sec. 9. Judicial review.
- “Sec. 10. Securities activities.
- “Sec. 11. Safeguards relating to securities activities.
- “Sec. 12. Investment bank holding companies and other financial activities.
- “Sec. 13. Saving provision.
- “Sec. 14. Separability of provisions.

1       “(c) REFERENCES IN OTHER LAWS.—Any reference  
2 in any Federal or State law to a provision of the Bank  
3 Holding Company Act of 1956 shall be deemed to be a  
4 reference to the corresponding provision of this Act.”.

5       (b) DEFINITIONS.—

6           (1) Subsection (n) of section 2 of the Bank  
7 Holding Company Act of 1956 (12 U.S.C. 1841(n))  
8 is amended by inserting “‘depository institution’,”  
9 before “‘insured depository institution’”.

10          (2) Subsection (o) of section 2 of the Bank  
11 Holding Company Act of 1956 (12 U.S.C. 1841(o))  
12 is amended—

13           (A) by striking paragraph (1) and insert-  
14 ing the following new paragraph:

15           “(1) LEAD DEPOSITORY INSTITUTION.—The  
16 term ‘lead depository institution’ means the largest  
17 depository institution controlled by the financial  
18 services holding company, based on a comparison of  
19 the average total assets controlled by each deposi-  
20 tory institution during the previous 12-month pe-  
21 riod.”; and

22           (B) by adding at the end the following new  
23 paragraphs:

24           “(8) INSURED DEPOSITORY INSTITUTION FOR  
25 CERTAIN SECTIONS.—Notwithstanding subsection



1 (n), the terms ‘depository institution’ and ‘insured  
2 depository institution’ include, for purposes of para-  
3 graph (1) and sections 4(k), 10, and 11, any branch,  
4 agency, or commercial lending company operated in  
5 the United States by a foreign bank.

6 “(9) WELL MANAGED.—The term ‘well man-  
7 aged’ means—

8 “(A) in the case of any company or depository  
9 institution which receives examinations, the  
10 achievement of—

11 “(i) a CAMEL composite rating of 1  
12 or 2 (or an equivalent rating under an  
13 equivalent rating system) in connection  
14 with the most recent examination or subse-  
15 quent review of such company or institu-  
16 tion; and

17 “(ii) at least a satisfactory rating for  
18 management, if such rating is given; or

19 “(B) in the case of a company or depository  
20 institution that has not received an exam-  
21 ination rating, the existence and use of manage-  
22 rial resources which the Board determines are  
23 satisfactory.”.

24 (3) Section 2 of the Bank Holding Company  
25 Act of 1956 (12 U.S.C. 1841) (as amended by sec-

1       tion 116(a)(1) of this Act) is amended by inserting  
2       after subsection (o) the following new subsections:

3       “(p) SECURITIES AFFILIATE.—The term ‘securities  
4       affiliate’ means any company—

5               “(1) that is (or is required to be) registered  
6       under the Securities Exchange Act of 1934 as a  
7       broker or dealer; and

8               “(2) the acquisition or retention of the shares  
9       or assets of which the Board has approved under  
10      section 10.

11      “(q) CAPITAL TERMS.—

12              “(1) DEPOSITORY INSTITUTIONS.—With respect  
13      to depository institutions, the terms ‘well capital-  
14      ized,’ ‘adequately capitalized’ and ‘undercapitalized’  
15      have the meanings given to such terms in accord-  
16      ance with section 38(b) of the Federal Deposit In-  
17      surance Act.

18              “(2) FINANCIAL SERVICES HOLDING COM-  
19      PANY.—The following definitions shall apply with re-  
20      spect to financial services holding companies:

21              “(A) ADEQUATELY CAPITALIZED.—The  
22      term ‘adequately capitalized’ means a level of  
23      capitalization which meets or exceeds the re-  
24      quired minimum level established by the Board

1           for each relevant capital measure for financial  
2           services holding companies.

3           “(B) WELL CAPITALIZED.—The term ‘well  
4           capitalized’ means a level of capitalization  
5           which meets or exceeds the required capital lev-  
6           els established by the Board for well capitalized  
7           financial services holding companies.

8           “(3) OTHER CAPITAL TERMS.—The terms ‘tier  
9           1’ and ‘risk-weighted assets’ have the meaning given  
10          those terms in the capital guidelines or regulations  
11          established by the Board for financial services hold-  
12          ing companies.

13          “(r) FOREIGN BANK TERMS.—For purposes of sub-  
14          sections (s) and (u), sections 4(k), 10, and 11, and sub-  
15          sections (b) and (c) of section 12—

16               “(1) the terms ‘agency’, ‘branch’, and ‘commer-  
17               cial lending company’ have the same meaning as in  
18               section 1(b) of the International Banking Act of  
19               1978.

20               “(2) the term ‘foreign bank’ means a foreign  
21               bank (as defined in section 1(b) of the International  
22               Banking Act of 1978) which operates a branch,  
23               agency or commercial lending company, or owns or  
24               controls a bank, in the United States.”.

1 (c) AMENDMENT REGARDING CONDITIONAL AP-  
2 PROVAL OF NOTICES.—Section 4(a)(2) of the Bank Hold-  
3 ing Company Act of 1956 (12 U.S.C. 1843(a)(2)) is  
4 amended by striking “paragraph (8)” and all that follows  
5 through “issued by the Board under such paragraph” and  
6 inserting “subsection (c)(8) or section 4(k), 10, or 11,  
7 subject to all the conditions specified in those provisions  
8 or in any order or regulation issued by the Board under  
9 those provisions”.

10 (d) AMENDMENT TO NOTICE PROCEDURES.—Section  
11 4(j) of the Bank Holding Company Act of 1956 (12  
12 U.S.C. 1843(j)) (as amended by section 122 of this title)  
13 is amended—

14 (1) in paragraph (1)(A), by striking “subsection  
15 (c)(8) or (a)(2)” and inserting “subsection (a)(2),  
16 (c)(8), (c)(15), or (k)”;

17 (2) in paragraph (1)(E)—

18 (A) by striking “subsection (c)(8) or  
19 (a)(2)” and inserting “subsection (a)(2), (c)(8),  
20 (c)(15), or (k)”;

21 (B) by striking the last sentence and in-  
22 serting the following: “In no event may the  
23 Board, without the agreement of the financial  
24 services holding company submitting the notice,  
25 extend the notice period under this subpara-

1 graph beyond the period that ends 180 days  
2 after the date that a notice is filed with the  
3 Board or the relevant Federal reserve bank in  
4 accordance with the regulations of the Board.”;  
5 and

6 (3) in paragraph (2), by redesignating subpara-  
7 graphs (B) and (C) as subparagraphs (C) and (D),  
8 respectively, and inserting after subparagraph (A)  
9 the following new subparagraph:

10 “(B) CRITERIA FOR NOTICES INVOLVING  
11 SECURITIES AFFILIATES.—In considering any  
12 notice that involves the acquisition of shares of  
13 a securities affiliate pursuant to section  
14 4(c)(15), the Board shall apply the criteria and  
15 safeguards contained in this paragraph and in  
16 sections 10 and 11.”.

17 (e) ELIMINATION OF OBSOLETE PROVISIONS.—The  
18 Bank Holding Company Act of 1956 (12 U.S.C. 1841  
19 through 1849) is amended—

20 (1) in section 4(a)(2)—

21 (A) by striking “or in the case of a com-  
22 pany” and ending “after December 31, 1980,”;  
23 and

1 (B) by striking the sentence beginning  
2 “Notwithstanding any other provision of this  
3 paragraph”;

4 (2) in section 4(b), by striking “After two years  
5 from the date of enactment of this Act, no” and in-  
6 serting “No”; and

7 (3) in section 5(a)—

8 (A) by striking “Within one hundred and  
9 eighty days after the date of enactment of this  
10 Act, or within” and inserting “Within”; and

11 (B) by striking “whichever is later,”.

12 (f) CONFORMING AMENDMENTS.—The Bank Holding  
13 Company Act of 1956 (12 U.S.C. 1841 et seq.) is amend-  
14 ed as follows:

15 (1) In section 3(c)(4), by striking “one-bank  
16 holding company” each place such term appears and  
17 inserting “1-bank financial services holding com-  
18 pany”.

19 (2) In section 3(f)(5), by striking “bank holding  
20 company” the first and second time such term ap-  
21 pears and inserting “financial services holding com-  
22 pany”.

23 (3) In section 4(i)(3)(A), by striking “is ac-  
24 quired” and inserting “was acquired”.

1           (4) By striking “bank holding companies” each  
2           place such appears in the following sections and in-  
3           serting “financial services holding companies”:

4                   (A) Section 3(d).

5                   (B) Section 4(f).

6                   (C) Section 7(a).

7           (5) By striking “bank holding company’s” each  
8           place such term appears in section 4(c)(14) and in-  
9           serting “financial services holding company’s”.

10          (6) By striking “bank holding company” each  
11          place such term appears in the following sections  
12          and inserting “financial services holding company”:

13                   (A) Subsections (a), (d), (e), (g), (h), and  
14                   (o) of section 2.

15                   (B) Subsections (a), (b), (d), (f)(1), (f)(2),  
16                   and (f)(3) of section 3.

17                   (C) Subsections (a), (d), (e), (g), (h), and  
18                   (j) of section 4.

19                   (D) Clause (ii) in the portion of section  
20                   4(c) which precedes paragraph (1) of such sec-  
21                   tion.

22                   (E) Paragraphs (2), (3), (7), (8), (10),  
23                   (11), (12)(A), and (14) of section 4(c).

24                   (F) Paragraphs (4), (5), and (9) of section  
25                   4(f).

1 (G) Paragraphs (1) and (2) of section 4(i).

2 (H) Sections 5, 7(b), 8, and 11.

3 (7) In section 4(f)(1), by striking “bank holding  
4 company” the 2d place such term appears and in-  
5 serting “financial services holding company”.

6 (8) In the headings for section 3(f) and 4(f), by  
7 striking “BANK HOLDING” and inserting “FINAN-  
8 CIAL SERVICES HOLDING”.

9 (9) In the heading the heading for section  
10 2(o)(7), by striking “BANK” and inserting “FINAN-  
11 CIAL SERVICES”.

12 (g) TREATMENT OF EXISTING BANK HOLDING COM-  
13 PANIES.—Section 2(a)(6) of the Bank Holding Company  
14 Act of 1956 (12 U.S.C. 1841(a)(6)) is amended by insert-  
15 ing at the end the following: “Any company that was a  
16 bank holding company on the day before the date of enact-  
17 ment of the Financial Services Competitiveness and Regu-  
18 latory Relief Act of 1995 shall, for purposes of this chap-  
19 ter, be deemed to have been a financial services holding  
20 company as of the date on which the company became a  
21 bank holding company.”.

22 (h) OTHER REFERENCES.—Any reference in any  
23 Federal law to “bank holding company” or “bank holding  
24 companies” as those terms were defined under the Bank  
25 Holding Company Act of 1956 before the enactment of



1 this Act shall be deemed to include a reference to “finan-  
2 cial services holding company” and “financial services  
3 holding companies”, respectively, as such terms are de-  
4 fined under the Financial Services Holding Company Act  
5 of 1995.

6 **SEC. 129. CONFORMING AMENDMENTS TO THE BANK HOLD-**  
7 **ING COMPANY ACT AMENDMENTS OF 1970.**

8 Section 106 of the Bank Holding Company Act  
9 Amendments of 1970 (12 U.S.C. 1971 through 1978) is  
10 amended by striking “bank holding company” each place  
11 such term appears and inserting “financial services hold-  
12 ing company”.

13 **SEC. 130. CREDIT CARDS FOR BUSINESS PURPOSES.**

14 Section 2(c)(2)(F) of the Bank Holding Company Act  
15 of 1956 (relating to the definition of credit card banks)  
16 is amended—

17 (1) in clause (i), by inserting “including the  
18 provision of credit card accounts for business pur-  
19 poses” before the semicolon; and

20 (2) in clause (v), by inserting “(other than the  
21 provision of credit card accounts for business pur-  
22 poses in connection with the credit card operations  
23 referred to in clause (i))” before the period.

1 **SEC. 131. DISPOSITION OF FORECLOSED ASSETS.**

2 Section 4(c)(2) of the Bank Holding Company Act  
3 of 1956 (12 U.S.C. 1843(c)(2)) is amended—

4 (1) by striking “for not more than one year at  
5 a time”; and

6 (2) by striking “but no such extensions shall ex-  
7 tend beyond a date five years” and inserting “and,  
8 in the case of a financial services holding company  
9 which has not disposed of such shares within 5 years  
10 of the date such shares were acquired, the Board  
11 may, upon the application of such company, grant  
12 additional exemptions if, in the Board’s judgment,  
13 such extension would not be detrimental to the pub-  
14 lic interest and either the financial services holding  
15 company has made a good faith attempt to dispose  
16 of such shares during such 5-year period or the dis-  
17 posal of such shares during such 5-year period  
18 would have been detrimental to the company, but  
19 the aggregate duration of such extensions shall not  
20 extend 10 years”.

1 **Subtitle D—Interagency Banking**  
2 **and Financial Services Advisory**  
3 **Committee**

4 **SEC. 141. INTERAGENCY BANKING AND FINANCIAL SERV-**  
5 **ICES ADVISORY COMMITTEE.**

6 (a) ESTABLISHMENT; COMPOSITION.—There is es-  
7 tablished the Banking and Financial Services Advisory  
8 Committee which shall consist of 6 members as follows:

9 (1) The Secretary of the Treasury.

10 (2) The Chairman of the Board of Governors of  
11 the Federal Reserve System.

12 (3) The Chairperson of the Board of Directors  
13 of the Federal Deposit Insurance Corporation.

14 (4) The Chairman of the Securities and Ex-  
15 change Commission.

16 (5) The Chairperson of the Commodities Fu-  
17 tures Trading Commission.

18 (6) The Comptroller of the Currency.

19 (b) CHAIRPERSON.—The chairperson of the Commit-  
20 tee shall be the Secretary of the Treasury.

21 (c) DESIGNATION OF OFFICERS AND EMPLOYEES.—  
22 The members of the Committee may, from time to time,  
23 designate other officers or employees of their respective  
24 agencies to carry out their duties on the Committee.

1       (d) COMPENSATION AND EXPENSES.—Each member  
2 of the Committee shall serve without additional compensa-  
3 tion but shall be entitled to reasonable expenses incurred  
4 in carrying out official duties as a member.

5       (e) FUNCTION OF THE COMMITTEE.—

6           (1) IN GENERAL.—The Committee shall meet  
7 as appropriate to consider matters of mutual inter-  
8 est to the members and to consider making rec-  
9 ommendations to the Board of Governors of the  
10 Federal Reserve System regarding the types of ac-  
11 tivities that may be financial in nature for purposes  
12 of the Financial Services Holding Company Act and  
13 to the Comptroller of the Currency regarding the  
14 types of activities that may be incidental to banking  
15 for purposes of section 5136 of the Revised Statutes  
16 of the United States.

17          (2) CONSIDERATION OF RECOMMENDATIONS.—  
18 The Board of Governors of the Federal Reserve Sys-  
19 tem and the Comptroller of the Currency, as appro-  
20 priate, shall take into account any recommendation  
21 made to the respective agency by the Committee  
22 and, if the agency does not adopt the recommenda-  
23 tion, shall provide a written explanation to the Com-  
24 mittee.

1 (f) IMPROVING THE SUPERVISION, EFFICIENCY, AND  
2 COMPETITIVENESS OF THE FINANCIAL SERVICES INDUS-  
3 TRY.—

4 (1) IN GENERAL.—The Committee shall seek to  
5 improve the supervision, efficiency, and competitive-  
6 ness of the financial services industry by making  
7 recommendations for such legislative or administra-  
8 tive action as the Committee determines to be appro-  
9 priate to the Congress, each agency or office rep-  
10 resented by a member on the Committee, and other  
11 agencies or departments of the United States, in-  
12 cluding recommendations for changes in law and in  
13 the regulations, policies, and procedures of any de-  
14 partment or agency.

15 (2) PRINTING IN FEDERAL REGISTER.—Rec-  
16 ommendations from paragraph (1) shall be printed  
17 in the Federal Register and submitted to the Com-  
18 mittee on Banking and Financial Services of the  
19 House of Representatives and the Committee on  
20 Banking, Housing, and Urban Affairs of the Senate.

21 **Subtitle E—Application and**  
22 **Registration Fees**

23 **SEC. 151. AUTHORITY TO IMPOSE FEES.**

24 Section 5 of the Bank Holding Company Act of 1956  
25 (12 U.S.C. 1844) is amended by inserting after subsection

1 (g) (as added by section 124 of the bill) the following new  
2 subsection:

3 “(h) FEES.—In connection with the administration  
4 of this Act, the Board may impose fees on any financial  
5 services holding company, or any company controlled di-  
6 rectly or indirectly by such holding company—

7 “(1) for such purposes as the Board determines  
8 to be reasonable and appropriate; and

9 “(2) in amounts, determined by the Board,  
10 which are at least sufficient to meet the Board’s ex-  
11 penses in carrying out this Act with respect to the  
12 activity, application, examination, or other incident  
13 or status (of such company) for which a fee is im-  
14 posed under this subsection.”.

## 15 **TITLE II—FUNCTIONAL** 16 **REGULATION**

### 17 **Subtitle A—Brokers and Dealers**

#### 18 **SEC. 201. DEFINITION OF BROKER.**

19 Section 3(a)(4) of the Securities Exchange Act of  
20 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

21 “(4) BROKER.—

22 “(A) IN GENERAL.—The term ‘broker’  
23 means any person engaged in the business of  
24 effecting transactions in securities for the ac-  
25 count of others.

1           “(B) EXCLUSION OF BANKS.—The term  
2           ‘broker’ does not include a bank unless such  
3           bank—

4                   “(i) publicly solicits the business of  
5                   effecting securities transactions for the ac-  
6                   count of others; or

7                   “(ii) is compensated for such business  
8                   by the payment of commissions or similar  
9                   remuneration based on effecting trans-  
10                  actions in securities (other than fees cal-  
11                  culated as a percentage of assets under  
12                  management) in excess of the bank’s incre-  
13                  mental costs directly attributable to  
14                  effecting such transactions (hereafter re-  
15                  ferred to as ‘incentive compensation’).

16           “(C) EXEMPTION FOR CERTAIN BANK AC-  
17           TIVITIES.—A bank shall not be considered to be  
18           a broker because the bank engages in any of  
19           the following activities under the conditions de-  
20           scribed:

21                   “(i) THIRD PARTY BROKERAGE AR-  
22                   RANGEMENTS.—The bank enters into a  
23                   contractual or other arrangement with a  
24                   broker or dealer registered under this title  
25                   under which the broker or dealer offers

1           brokerage services on or off the premises  
2           of the bank if—

3                   “(I) such broker or dealer is  
4                   clearly identified as the person per-  
5                   forming the brokerage services;

6                   “(II) the broker or dealer per-  
7                   forms brokerage services in an area  
8                   that is clearly marked and, unless  
9                   made impossible by space or personnel  
10                  considerations, physically separate  
11                  from the routine deposit-taking activi-  
12                  ties of the bank;

13                  “(III) any materials used by the  
14                  bank to advertise or promote generally  
15                  the availability of brokerage services  
16                  under the contractual or other ar-  
17                  rangement clearly indicate that the  
18                  brokerage services are being provided  
19                  by the broker or dealer and not by the  
20                  bank;

21                  “(IV) any materials used by the  
22                  bank to advertise or promote generally  
23                  the availability of brokerage services  
24                  under the contractual or other ar-  
25                  rangement are in compliance with the



1 Federal securities laws before dis-  
2 tribution;

3 “(V) bank employees perform  
4 only clerical or ministerial functions in  
5 connection with brokerage trans-  
6 actions, including scheduling appoint-  
7 ments with the associated persons of  
8 a broker or dealer and, on behalf of a  
9 broker or dealer, transmitting orders  
10 or handling customers funds or secu-  
11 rities, except that bank employees who  
12 are not so qualified may describe in  
13 general terms investment vehicles  
14 under the contractual or other ar-  
15 rangement and accept customer or-  
16 ders on behalf of the broker or dealer  
17 if such employees have received train-  
18 ing that is substantially equivalent to  
19 the training required for personnel  
20 qualified to sell securities pursuant to  
21 the requirements of a self-regulatory  
22 organization (as defined in section  
23 3(a) of the Securities Exchange Act of  
24 1934);

1           “(VI) bank employees do not di-  
2 rectly receive incentive compensation  
3 for any brokerage transaction unless  
4 such employees are associated persons  
5 of a broker or dealer and are qualified  
6 pursuant to the requirements of a  
7 self-regulatory organization (as so de-  
8 fined) except that the bank employees  
9 may receive nominal cash and  
10 noncash compensation for customer  
11 referrals if the cash compensation is a  
12 1-time fee of a fixed dollar amount  
13 and the payment of the fee is not con-  
14 tingent on whether the referral results  
15 in a transaction;

16           “(VII) such services are provided  
17 by the broker or dealer on a basis in  
18 which all customers which receive any  
19 services are fully disclosed to the  
20 broker or dealer; and

21           “(VIII) the broker or dealer in-  
22 forms each customer that the broker-  
23 age services are provided by the  
24 broker or dealer and not by the bank  
25 and that the securities are not depos-

1           its or other obligations of the bank,  
2           are not guaranteed by the bank, and  
3           are not insured by the Federal De-  
4           posit Insurance Corporation.

5           “(ii) TRUST ACTIVITIES.—The bank  
6           engages in trust activities (including  
7           effecting transactions in the course of such  
8           trust activities) permissible for national  
9           banks under the first section of the Act of  
10          September 28, 1962, or for State banks  
11          under relevant State trust statutes or law  
12          (including securities safekeeping, self-di-  
13          rected individual retirement accounts, or  
14          managed agency accounts or other func-  
15          tionally equivalent accounts of a bank) un-  
16          less the bank—

17               “(I) publicly solicits brokerage  
18               business, other than by advertising  
19               that it effects transactions in securi-  
20               ties in conjunction with advertising its  
21               other trust activities; or

22               “(II) receives incentive com-  
23               pensation for such brokerage activi-  
24               ties.

1                   “(iii)     PERMISSIBLE     SECURITIES  
2                   TRANSACTIONS.—The bank effects trans-  
3                   actions in exempted securities, other than  
4                   municipal securities, in commercial paper,  
5                   bankers acceptances, commercial bills,  
6                   qualified Canadian Government obligations  
7                   as defined in section 5136 of the Revised  
8                   Statutes, obligations of the Washington  
9                   Metropolitan Area Transit Authority which  
10                  are guaranteed by the Secretary of Trans-  
11                  portation under section 9 of the National  
12                  Capital Transportation Act of 1969, obli-  
13                  gations of the North American Develop-  
14                  ment Bank, and obligations of any local  
15                  public agency (as defined in section 110(h)  
16                  of the Housing Act of 1949) or any public  
17                  housing agency (as defined in the United  
18                  States Housing Act of 1937) that are ex-  
19                  pressly authorized by section 5136 of the  
20                  Revised Statutes of the United States as  
21                  permissible for a national bank to under-  
22                  write or deal in.

23                  “(iv)     MUNICIPAL     SECURITIES.—The  
24                  bank effects transactions in municipal se-  
25                  curities.

1           “(v) EMPLOYEE AND SHAREHOLDER  
2 BENEFIT PLANS.—The bank effects trans-  
3 actions as part of any bonus, profit-shar-  
4 ing, pension, retirement, thrift, savings, in-  
5 centive, stock purchase, stock ownership,  
6 stock appreciation, stock option, dividend  
7 reinvestment, or similar plan for employees  
8 or shareholders of an issuer or its subsidi-  
9 aries.

10           “(vi) SWEEP ACCOUNTS.—The bank  
11 effects transactions as part of a program  
12 for the investment or reinvestment of bank  
13 deposit funds into any no-load, open-end  
14 management investment company reg-  
15 istered under the Investment Company Act  
16 of 1940 that holds itself out as a money  
17 market fund.

18           “(vii) AFFILIATE TRANSACTIONS.—  
19 The bank effects transactions for the ac-  
20 count of any affiliate of the bank, as de-  
21 fined in section 2 of the Financial Services  
22 Holding Company Act of 1995.

23           “(viii) PRIVATE SECURITIES OFFER-  
24 INGS.—The bank—

1 “(I) effects sales as part of a pri-  
2 mary offering of securities by an is-  
3 suer, not involving a public offering,  
4 pursuant to section 3(b), 4(2), or 4(6)  
5 of the Securities Act of 1933 and the  
6 rules and regulations issued there-  
7 under; and

8 “(II) effects such sales exclu-  
9 sively to an accredited investor, as de-  
10 fined in section 3 of the Securities Act  
11 of 1933.

12 “(ix) DE MINIMIS EXEMPTION.—If the  
13 bank does not have a subsidiary or affiliate  
14 registered as a broker or dealer under sec-  
15 tion 15, the bank effects, other than in  
16 transactions referred to in clauses (i)  
17 through (viii), not more than—

18 “(I) 800 transactions in any cal-  
19 endar year in securities for which a  
20 ready market exists, and

21 “(II) 200 other transactions in  
22 securities in any calendar year.

23 “(x) SAFEKEEPING AND CUSTODY  
24 SERVICES.—The bank, as part of cus-  
25 tomary banking activities—

1           “(I) provides safekeeping or cus-  
2           tody services with respect to securi-  
3           ties, including the exercise of warrants  
4           or other rights on behalf of customers;

5           “(II) clears or settles trans-  
6           actions in securities;

7           “(III) effects securities lending  
8           or borrowing transactions with or on  
9           behalf of customers as part of services  
10          provided to customers pursuant to  
11          subclauses (I) and (II) or invests cash  
12          collateral pledged in connection with  
13          such transactions; or

14          “(IV) holds securities pledged by  
15          1 customer to another customer or se-  
16          curities subject to resale agreements  
17          between customers or facilitates the  
18          pledging or transfer of such securities  
19          by book entry.

20          “(xi) BANKING PRODUCTS.—The bank  
21          effects transactions in products that—

22                 “(I) are described in section  
23                 10(l)(3)(B) of the Financial Services  
24                 Holding Company Act of 1995; or

1 “(II) have been exempted by the  
2 Board of Governors of the Federal  
3 Reserve System pursuant to section  
4 10(l)(3)(C) of such Act.

5 “(D) EXEMPTION FOR ENTITIES SUBJECT  
6 TO SECTION 15(e).—The term ‘broker’ does not  
7 include a bank that—

8 “(i) was, immediately prior to the en-  
9 actment of the Financial Services Competi-  
10 tiveness and Regulatory Relief Act of  
11 1995, subject to section 15(e); and

12 “(ii) is subject to such restrictions  
13 and requirements as the Commission con-  
14 siders appropriate.”.

15 **SEC. 202. DEFINITION OF DEALER.**

16 Section 3(a)(5) of the Securities Exchange Act of  
17 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

18 “(5) DEALER.—

19 “(A) IN GENERAL.—The term ‘dealer’  
20 means any person engaged in the business of  
21 buying and selling securities for such person’s  
22 own account through a broker or otherwise.

23 “(B) EXCEPTION FOR PERSON NOT EN-  
24 GAGED IN THE BUSINESS OF DEALING.—The  
25 term ‘dealer’ does not include a person that



1 buys or sells securities for such person's own  
2 account, either individually or in a fiduciary ca-  
3 pacity, but not as a part of a regular business.

4 “(C) EXEMPTION FOR CERTAIN BANK AC-  
5 TIVITIES.—A bank shall not be considered to be  
6 a dealer because the bank engages in any of the  
7 following activities under the conditions de-  
8 scribed:

9 “(i) The bank buys and sells commer-  
10 cial paper, bankers acceptances, exempted  
11 securities (other than municipal securities),  
12 qualified Canadian Government obligations  
13 as defined in section 5136 of the Revised  
14 Statutes, obligations of the Washington  
15 Metropolitan Area Transit Authority which  
16 are guaranteed by the Secretary of Trans-  
17 portation under section 9 of the National  
18 Capital Transportation Act of 1969, obli-  
19 gations of the North American Develop-  
20 ment Bank, and obligations of any local  
21 public agency (as defined in section 110(h)  
22 of the Housing Act of 1949) or any public  
23 housing agency (as defined in the United  
24 States Housing Act of 1937) that are ex-  
25 pressly authorized by section 5136 of the

1 Revised Statutes of the United States as  
2 permissible for a national bank to under-  
3 write or deal in.

4 “(ii) The bank buys and sells munici-  
5 pal securities.

6 “(iii) The bank buys and sells securi-  
7 ties for investment purposes for the bank  
8 or for accounts for which the bank acts as  
9 a trustee or fiduciary.

10 “(iv) The bank—

11 “(I) has not been affiliated with  
12 a securities affiliate under section 10  
13 of the Financial Services Holding  
14 Company Act of 1995 for more than  
15 1 year; and

16 “(II) engages in the issuance or  
17 sale, through a grantor trust or other-  
18 wise, of securities backed by or rep-  
19 resenting an interest in notes, drafts,  
20 acceptances, loans, leases, receivables,  
21 other obligations, or pools of any such  
22 obligations originated or purchased by  
23 the bank or any affiliate of the bank.

24 “(v) The bank buys and sells products  
25 that—

1                   “(I) are described in section  
2                   10(l)(3)(B) of the Financial Services  
3                   Holding Company Act of 1995; or  
4                   “(II) have been exempted by the  
5                   Board of Governors of the Federal  
6                   Reserve System pursuant to section  
7                   10(l)(3)(C) of such Act.”.

8   **SEC. 203. POWER TO EXEMPT FROM THE DEFINITIONS OF**  
9                   **BROKER AND DEALER.**

10       Section 3 of the Securities Exchange Act of 1934 (15  
11   U.S.C. 78c) is amended by adding at the end the follow-  
12   ing:

13       “(e) EXEMPTION FROM DEFINITION OF BROKER OR  
14   DEALER.—The Commission, by regulation or order, upon  
15   its own motion or upon application, may conditionally or  
16   unconditionally exclude any person or class of persons  
17   from the definitions of ‘broker’ or ‘dealer’, if the Commis-  
18   sion finds that such exclusion is consistent with the public  
19   interest, the protection of investors, and the purposes of  
20   this title.”.

21   **SEC. 204. MARGIN REQUIREMENTS.**

22       (a) Section 7(d) of the Securities Exchange Act of  
23   1934 (15 U.S.C. 15g(d)) is amended by striking “or (E)”  
24   and inserting “(E) to a loan to a broker or dealer by a  
25   member bank or any other person that has entered into

1 an agreement pursuant to section 8(a) if the proceeds of  
 2 the loan are to be used in the ordinary course of the bro-  
 3 ker's or dealer's business other than for the purpose of  
 4 funding the purchase of securities for the account of such  
 5 broker or dealer, or (F)".

6 (b) Section 8(a) of the Securities and Exchange Act  
 7 of 1934 is amended—

8 (1) by striking "nonmember bank" and insert-  
 9 ing "person other than a member bank"; and

10 (2) by striking "such bank" in the second sen-  
 11 tence and inserting "such person".

12 **SEC. 205. EFFECTIVE DATE.**

13 This subtitle shall become effective 270 days after the  
 14 date of enactment of this Act.

15 **Subtitle B—Bank Investment**  
 16 **Company Activities**

17 **SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY**  
 18 **AFFILIATED BANK.**

19 (a) MANAGEMENT COMPANIES.—Section 17(f) of the  
 20 Investment Company Act of 1940 (15 U.S.C. 80a-17(f))  
 21 is amended—

22 (1) by redesignating paragraphs (1), (2), and  
 23 (3) as subparagraphs (A), (B), and (C), respectively;

24 (2) by striking "(f) Every registered" and in-  
 25 serting "(f) CUSTODY OF SECURITIES.—

1 “(1) Every registered”;

2 (3) by designating the 2d, 3d, 4th, and 5th sen-  
3 tences of such subsection as paragraphs (2) through  
4 (5), respectively, and indenting the left margin of  
5 such paragraphs appropriately; and

6 (4) by adding at the end the following new  
7 paragraph:

8 “(6) Notwithstanding any provision of this sub-  
9 section, if a bank described in paragraph (1) or an  
10 affiliated person of such bank is an affiliated person,  
11 promoter, organizer, or sponsor of, or principal un-  
12 derwriter for the registered company, such bank may  
13 serve as custodian under this subsection in accord-  
14 ance with such rules, regulations, or orders as the  
15 Commission may prescribe, consistent with the pro-  
16 tection of investors, after consulting in writing with  
17 the appropriate Federal banking agency, as defined  
18 in section 3 of the Federal Deposit Insurance Act.”.

19 (b) UNIT INVESTMENT TRUSTS.—Section 26(a)(1) of  
20 the Investment Company Act of 1940 (15 U.S.C. 80a-  
21 26(a)(1)) is amended by inserting before the semicolon at  
22 the end the following: “, except that, if the trustee or cus-  
23 todian described in this subsection is an affiliated person  
24 of such underwriter or depositor, the Commission may  
25 adopt rules and regulations or issue orders, consistent

1 with the protection of investors, prescribing the conditions  
2 under which such trustee or custodian may serve, after  
3 consulting in writing with the appropriate Federal bank-  
4 ing agency (as defined in section 3 of the Federal Deposit  
5 Insurance Act)’’.

6 (c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a)  
7 of the Investment Company Act of 1940 (15 U.S.C. 80a-  
8 35(a)) is amended—

9 (1) in paragraph (1), by striking ‘‘or’’ at the  
10 end;

11 (2) in paragraph (2), by striking the period at  
12 the end and inserting ‘‘; or ‘‘; and

13 (3) by inserting after paragraph (2) the follow-  
14 ing:

15 ‘‘(3) as custodian.’’.

16 **SEC. 212. USE OF UNDERWRITING PROCEEDS.**

17 Section 10(f) of the Investment Company Act of  
18 1940 (15 U.S.C. 80a-10(f)) is amended—

19 (1) in the 1st sentence, by striking ‘‘issuer) a  
20 principal underwriter’’ and inserting ‘‘issuer)—

21 ‘‘(1) a principal underwriter’’; and

22 (2) by striking ‘‘for the issuer. The Commis-  
23 sion’’ and inserting ‘‘for the issuer; or

24 ‘‘(2) if the registration statement, or any other  
25 offering document pursuant to which the security is

1 issued, states that any material part of the proceeds  
2 will be used to discharge indebtedness owed to the  
3 adviser of such registered investment company or  
4 any person controlling, controlled by, or under com-  
5 mon control with the adviser.

6 The Commission''.

7 **SEC. 213. LENDING TO AN AFFILIATED INVESTMENT COM-**  
8 **PANY.**

9 Section 18 of the Investment Company Act of 1940  
10 (15 U.S.C. 80a-18) is amended by adding at the end the  
11 following:

12 “(l) Notwithstanding any provision of this section, it  
13 shall be unlawful for any affiliated person of a registered  
14 investment company or any affiliated person of such a per-  
15 son to loan money to such investment company in con-  
16 travention of such rules, regulations, or orders as the  
17 Commission may prescribe in the public interest and con-  
18 sistent with the protection of investors.”.

19 **SEC. 214. INDEPENDENT DIRECTORS.**

20 (a) IN GENERAL.—Section 2(a)(19)(A) of the Invest-  
21 ment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A))  
22 is amended—

23 (1) by striking clause (v) and inserting the fol-  
24 lowing new clause:

1 “(v) any person (other than a reg-  
2 istered investment company) that, at any  
3 time during the preceding 6 months, has  
4 executed any portfolio transactions for, en-  
5 gaged in any principal transactions with,  
6 or distributed shares for—

7 “(I) the investment company,

8 “(II) any other investment com-  
9 pany having the same investment ad-  
10 viser as such investment company or  
11 holding itself out to investors as a re-  
12 lated company for purposes of invest-  
13 ment or investor services, or

14 “(III) any account over which the  
15 investment company’s investment ad-  
16 viser has brokerage placement discre-  
17 tion,

18 or any affiliated person of such a person,”;

19 (2) by redesignating clause (vi) as clause (vii);

20 and

21 (3) by inserting after clause (v) the following  
22 new clause:

23 “(vi) any person (other than a reg-  
24 istered investment company) that, at any



1                   time during the preceding 6 months, has  
2                   loaned money to—

3                               “(I) the investment company,

4                               “(II) any other investment com-  
5                               pany having the same investment ad-  
6                               viser as such investment company or  
7                               holding itself out to investors as a re-  
8                               lated company for purposes of invest-  
9                               ment or investor services, or

10                              “(III) any account for which the  
11                              investment company’s investment ad-  
12                              viser has borrowing authority,

13                              or any affiliated person of such a person,  
14                              or”.

15           (b) AFFILIATION OF DIRECTORS.—Section 10(c) of  
16 the Investment Company Act of 1940 (15 U.S.C. 80a–  
17 10(c)) is amended by striking “bank, except” and insert-  
18 ing “bank (and its subsidiaries) or any single financial  
19 services holding company (and its affiliates and subsidi-  
20 aries), as those terms are defined in the Financial Services  
21 Holding Company Act of 1995, except”.

22           (c) EFFECTIVE DATE.—The provisions of subsection  
23 (a) of this section shall become effective 1 year after the  
24 date of enactment of this subtitle.

1 **SEC. 215. ADDITIONAL SEC DISCLOSURE AUTHORITY.**

2 (a) MISREPRESENTATION.—Section 35(a) of the In-  
3 vestment Company Act of 1940 (15 U.S.C. 80a–34(a)) is  
4 amended to read as follows:

5 “(a) MISREPRESENTATION OF GUARANTEES.—

6 “(1) IN GENERAL.—It shall be unlawful for any  
7 person, issuing or selling any security of which a  
8 registered investment company is the issuer, to rep-  
9 resent or imply in any manner whatsoever that such  
10 security or company—

11 “(A) has been guaranteed, sponsored, rec-  
12 ommended, or approved by the United States,  
13 or any agency, instrumentality or officer of the  
14 United States;

15 “(B) has been insured by the Federal De-  
16 posit Insurance Corporation; or

17 “(C) is guaranteed by or is otherwise an  
18 obligation of any bank or insured depository in-  
19 stitution.

20 “(2) DISCLOSURES.—Any person issuing or  
21 selling the securities of a registered investment com-  
22 pany shall prominently disclose that the investment  
23 company or any security issued by the investment  
24 company—

25 “(A) is not insured by the Federal Deposit  
26 Insurance Corporation;

1           “(B) is not guaranteed by an affiliated in-  
2           sured depository institution; and

3           “(C) is not otherwise an obligation of any  
4           bank or insured depository institution,  
5           in accordance with such rules, regulations, or orders  
6           as the Commission may prescribe as reasonably nec-  
7           essary or appropriate in the public interest for the  
8           protection of investors, after consulting in writing  
9           with the appropriate Federal banking agencies.

10          “(3) DEFINITIONS.—The terms ‘insured deposi-  
11          tory institution’ and ‘appropriate Federal banking  
12          agency’ have the meanings given to such terms in  
13          section 3 of the Federal Deposit Insurance Act.”.

14          (b) DECEPTIVE USE OF NAMES.—Section 35(d) of  
15          the Investment Company Act of 1940 (15 U.S.C. 80a-  
16          34(d)) is amended to read as follows:

17          “(d)(1) It shall be unlawful for any registered invest-  
18          ment company to adopt as part of the name or title of  
19          such company, or of any securities of which it is the issuer,  
20          any word or words that the Commission finds are materi-  
21          ally deceptive or misleading. The Commission may adopt  
22          such rules or regulations or issue such orders as are nec-  
23          essary or appropriate to prevent the use of deceptive or  
24          misleading names or titles by investment companies.

1       “(2) It shall be deceptive and misleading for any reg-  
2 istered investment company—

3               “(A) that is an affiliated person of a bank or  
4 an affiliated person of such a person, or

5               “(B) for which a bank or an affiliated person  
6 of a bank acts as investment adviser, sponsor, pro-  
7 moter, or principal underwriter,

8 to adopt, as part of the name or title of such company,  
9 or of any security of which it is an issuer, any word that  
10 is the same or similar to, or a variation of, the name or  
11 title of such bank or affiliated person thereof, in con-  
12 travention of such rules, regulations, or orders as the  
13 Commission may prescribe as necessary or appropriate in  
14 the public interest or for the protection of investors.”.

15 **SEC. 216. DEFINITION OF BROKER UNDER THE INVEST-**  
16 **MENT COMPANY ACT OF 1940.**

17       Section 2(a)(6) of the Investment Company Act of  
18 1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as fol-  
19 lows:

20               “(6) The term ‘broker’ has the same meaning  
21 as in the Securities Exchange Act of 1934, except  
22 that such term does not include any person solely by  
23 reason of the fact that such person is an underwriter  
24 for 1 or more investment companies.”.

1 **SEC. 217. DEFINITION OF DEALER UNDER THE INVEST-**  
2 **MENT COMPANY ACT OF 1940.**

3 Section 2(a)(11) of the Investment Company Act of  
4 1940 (15 U.S.C. 80a-2(a)(11)) is amended to read as fol-  
5 lows:

6 “(11) The term ‘dealer’ has the same meaning  
7 as in the Securities Exchange Act of 1934, but does  
8 not include an insurance company or investment  
9 company.”.

10 **SEC. 218. REMOVAL OF THE EXCLUSION FROM THE DEFINI-**  
11 **TION OF INVESTMENT ADVISER FOR BANKS**  
12 **THAT ADVISE INVESTMENT COMPANIES.**

13 (a) INVESTMENT ADVISER.—Section 202(a)(11) of  
14 the Investment Advisers Act of 1940 (15 U.S.C. 80b-  
15 2(a)(11)) is amended in subparagraph (A), by striking  
16 “investment company” and inserting “investment com-  
17 pany, except that the term ‘investment adviser’ includes  
18 any bank or financial services holding company to the ex-  
19 tent that such bank or financial services holding company  
20 acts as an investment adviser to a registered investment  
21 company, or if, in the case of a bank, such services are  
22 performed through a separately identifiable department or  
23 division, the department or division, and not the bank it-  
24 self, shall be deemed to be the investment adviser”.

25 (b) SEPARATELY IDENTIFIABLE DEPARTMENT OR  
26 DIVISION.—Section 202(a) of the Investment Advisers Act

1 of 1940 (15 U.S.C. 80b-2(a)) is amended by adding at  
2 the end the following:

3 “(25) The term ‘separately identifiable depart-  
4 ment or division’ of a bank means a unit—

5 “(A) that is under the direct supervision of  
6 an officer or officers designated by the board of  
7 directors of the bank as responsible for the day-  
8 to-day conduct of the bank’s investment adviser  
9 activities for 1 or more investment companies,  
10 including the supervision of all bank employees  
11 engaged in the performance of such activities;  
12 and

13 “(B) for which all of the records relating  
14 to its investment adviser activities are sepa-  
15 rately maintained in or extractable from such  
16 unit’s own facilities or the facilities of the bank,  
17 and such records are so maintained or other-  
18 wise accessible as to permit independent exam-  
19 ination and enforcement of this Act or the In-  
20 vestment Company Act of 1940 and rules and  
21 regulations promulgated under this Act or the  
22 Investment Company Act of 1940.”.

1 **SEC. 219. DEFINITION OF BROKER UNDER THE INVEST-**  
2 **MENT ADVISERS ACT OF 1940.**

3 Section 202(a)(3) of the Investment Advisers Act of  
4 1940 (15 U.S.C. 80b-2(a)(3)) is amended to read as fol-  
5 lows:

6 “(3) The term ‘broker’ has the same meaning  
7 as in the Securities Exchange Act of 1934.”.

8 **SEC. 220. DEFINITION OF DEALER UNDER THE INVEST-**  
9 **MENT ADVISERS ACT OF 1940.**

10 Section 202(a)(7) of the Investment Advisers Act of  
11 1940 (15 U.S.C. 80b-2(a)(7)) is amended to read as fol-  
12 lows:

13 “(7) The term ‘dealer’ has the same meaning as  
14 in the Securities Exchange Act of 1934, but does  
15 not include an insurance company or investment  
16 company.”.

17 **SEC. 221. INTERAGENCY CONSULTATION.**

18 The Investment Advisers Act of 1940 (15 U.S.C.  
19 80b-1 et seq.) is amended by inserting after section 210  
20 the following new section:

21 **“SEC. 210A. CONSULTATION.**

22 “(a) EXAMINATION RESULTS AND OTHER INFORMA-  
23 TION.—

24 “(1) The appropriate Federal banking agency  
25 shall provide the Commission upon request the re-  
26 sults of any examination, reports, records, or other

1 information as each may have access to with respect  
2 to the investment advisory activities of any financial  
3 services holding company, bank, or separately identi-  
4 fiable department or division of a bank, that is reg-  
5 istered under section 203 of this title, or, in the case  
6 of a financial services holding company or bank, that  
7 has a subsidiary or a separately identifiable depart-  
8 ment or division registered under that section, to the  
9 extent necessary for the Commission to carry out its  
10 statutory responsibilities.

11 “(2) The Commission shall provide to the ap-  
12 propriate Federal banking agency upon request the  
13 results of any examination, reports, records, or other  
14 information with respect to the investment advisory  
15 activities of any financial services holding company,  
16 bank, or separately identifiable department or divi-  
17 sion of a bank, any of which is registered under sec-  
18 tion 203 of this title, to the extent necessary for the  
19 agency to carry out its statutory responsibilities.

20 “(b) EFFECT ON OTHER AUTHORITY.—Nothing  
21 herein shall limit in any respect the authority of the appro-  
22 priate Federal banking agency with respect to such finan-  
23 cial services holding company, bank, or department or di-  
24 vision under any provision of law.



1       “(c) DEFINITION.—For purposes of this section, the  
2 term ‘appropriate Federal banking agency’ shall have the  
3 same meaning as in section 3 of the Federal Deposit In-  
4 surance Act.”.

5 **SEC. 222. TREATMENT OF BANK COMMON TRUST FUNDS.**

6       (a) SECURITIES ACT OF 1933.—Section 3(a)(2) of  
7 the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is  
8 amended by striking “or any interest or participation in  
9 any common trust fund or similar fund maintained by a  
10 bank exclusively for the collective investment and reinvest-  
11 ment of assets contributed thereto by such bank in its ca-  
12 pacity as trustee, executor, administrator, or guardian”  
13 and inserting “or any interest or participation in any com-  
14 mon trust fund or similar fund that is excluded from the  
15 definition of the term ‘investment company’ under section  
16 3(c)(3) of the Investment Company Act of 1940”.

17       (b) SECURITIES EXCHANGE ACT OF 1934.—Section  
18 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934  
19 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as fol-  
20 lows:

21               “(iii) any interest or participation in any  
22 common trust fund or similar fund that is ex-  
23 cluded from the definition of the term ‘invest-  
24 ment company’ under section 3(c)(3) of the In-  
25 vestment Company Act of 1940;”.

1 (c) INVESTMENT COMPANY ACT OF 1940.—Section  
2 3(c)(3) of the Investment Company Act of 1940 (15  
3 U.S.C. 80a-3(c)(3)) is amended by inserting before the  
4 period the following: “, if—

5 “(A) such fund is employed by the bank  
6 solely as an aid to the administration of trusts,  
7 estates, or other accounts created and main-  
8 tained for a fiduciary purpose;

9 “(B) except in connection with the ordi-  
10 nary advertising of the bank’s fiduciary serv-  
11 ices, interests in such fund are not—

12 “(i) advertised; or

13 “(ii) offered for sale to the general  
14 public; and

15 “(C) fees and expenses charged by such  
16 fund are not in contravention of fiduciary prin-  
17 ciples established under applicable Federal or  
18 State law”.

19 **SEC. 223. INVESTMENT ADVISERS PROHIBITED FROM HAV-**  
20 **ING CONTROLLING INTEREST IN REG-**  
21 **ISTERED INVESTMENT COMPANY.**

22 Section 15 of the Investment Company Act of 1940  
23 (15 U.S.C. 80a-15) is amended by adding at the end the  
24 following new subsection:

1       “(g) CONTROLLING INTEREST IN INVESTMENT COM-  
2 PANY PROHIBITED.—

3           “(1) IN GENERAL.—If any investment adviser  
4       to a registered investment company, or an affiliated  
5       person of that investment adviser, holds a control-  
6       ling interest in that registered investment company  
7       in a trustee or fiduciary capacity, such person  
8       shall—

9           “(A) if it holds the shares in a trustee or  
10       fiduciary capacity with respect to any employee  
11       benefit plan subject to the Employee Retirement  
12       Income Security Act of 1974, transfer the  
13       power to vote the shares of the investment com-  
14       pany through to another person acting in a fi-  
15       duciary capacity with respect to the plan who is  
16       not an affiliated person of that investment ad-  
17       viser or any affiliated person thereof; or

18           “(B) if it holds the shares in a trustee or  
19       fiduciary capacity with respect to any other per-  
20       son or entity other than an employee benefit  
21       plan subject to the Employee Retirement In-  
22       come Security Act of 1974—

23           “(i) transfer the power to vote the  
24       shares of the investment company through  
25       to—

1                   “(I) the beneficial owners of the  
2                   shares;

3                   “(II) another person acting in a  
4                   fiduciary capacity who is not an affili-  
5                   ated person of that investment adviser  
6                   or any affiliated person thereof; or

7                   “(III) any person authorized to  
8                   receive statements and information  
9                   with respect to the trust who is not an  
10                  affiliated person of that investment  
11                  adviser or any affiliated person there-  
12                  of;

13                  “(ii) vote the shares of the investment  
14                  company held by it in the same proportion  
15                  as shares held by all other shareholders of  
16                  the investment company; or

17                  “(iii) vote the shares of the invest-  
18                  ment company as otherwise permitted  
19                  under such rules, regulations, or orders as  
20                  the Commission may prescribe for the pro-  
21                  tection of investors.

22                  “(2) EXEMPTION.—Paragraph (1) shall not  
23                  apply to any investment adviser to a registered in-  
24                  vestment company, or an affiliated person of that in-  
25                  vestment adviser, holding shares of the investment

1 company in a trustee or fiduciary capacity if that  
2 registered investment company consists solely of as-  
3 sets of held in such capacities.

4 “(3) SAFE HARBOR.—No investment adviser to  
5 a registered investment company or any affiliated  
6 person of such investment adviser shall be deemed to  
7 have acted unlawfully or to have breached a fidu-  
8 ciary duty under State or Federal law solely by rea-  
9 son of acting in accordance with clause (i), (ii), or  
10 (iii) of paragraph (1)(B).

11 “(4) CHURCH PLAN EXEMPTION.—Paragraph  
12 (1) shall not apply to any investment adviser to a  
13 registered investment company, or an affiliated per-  
14 son of that investment adviser, holding shares in  
15 such a capacity, if such investment adviser or such  
16 affiliated person is an organization described in sec-  
17 tion 414(e)(3)(A) of the Internal Revenue Code of  
18 1986.”.

19 **SEC. 224. CONFORMING CHANGE IN DEFINITION.**

20 Section 2(a)(5) of the Investment Company Act of  
21 1940 (15 U.S.C. 80a-2(a)(5)) is amended by striking  
22 “(A) a banking institution organized under the laws of the  
23 United States” and inserting “(A) a depository institution  
24 (as defined in section 3 of the Federal Deposit Insurance  
25 Act) or a branch or agency of a foreign bank (as such

1 terms are defined in section 101(b) of the International  
2 Banking Act of 1978)’’.

3 **SEC. 225. EFFECTIVE DATE.**

4 This subtitle shall take effect 270 days after the date  
5 of the enactment of this Act.

6 **TITLE III—BANK INSURANCE**  
7 **ACTIVITIES**

8 **SEC. 301. AUTHORITY OF THE COMPTROLLER OF THE CUR-**  
9 **RENCY.**

10 (a) STATE SUPERVISION.—Chapter 1 of Title LXII  
11 of the Revised Statutes of the United States (12 U.S.C.  
12 21 et seq.) is amended—

13 (1) by redesignating section 5136A as section  
14 5136C; and

15 (2) by inserting after section 5136 (12 U.S.C.  
16 24) the following new section:

17 **“SEC. 5136A. STATE SUPERVISION OF INSURANCE.**

18 **“(a) STATE LICENSING OF INSURANCE ACTIVI-**  
19 **TIES.—**

20 **“(1) IN GENERAL.—**Subject to paragraph (2)  
21 and subject to the provisions of subsection (f), no  
22 provision of section 5136, any other section of this  
23 title, or section 13 of the Federal Reserve Act may  
24 be construed as limiting or otherwise impairing the  
25 authority of any State to regulate—

1           “(A) the extent to which, and the manner  
2           in which, a national bank may engage within  
3           the State in insurance activities pursuant to  
4           section 5136B of this chapter or section 13 of  
5           the Federal Reserve Act;

6           “(B) the manner in which a national bank  
7           may engage within the State in insurance ac-  
8           tivities pursuant to section 5136(b)(2)(B) of  
9           the Revised Statutes of the United States; or

10          “(C) the manner in which a national bank  
11          may engage within the State in insurance ac-  
12          tivities pursuant to section 5136(b)(2)(A) of the  
13          Revised Statutes of the United States through,  
14          and limited to, consumer disclosure require-  
15          ments or licensing requirements, procedures,  
16          and qualifications as described in paragraph  
17          (2)(C).

18          “(2) PROHIBITION ON STATE DISCRIMINATION  
19          AGAINST NATIONAL BANKS.—Notwithstanding para-  
20          graph (1)—

21                 “(A) PROVIDING INSURANCE AS AGENT OR  
22                 BROKER.—No State may impose any insurance  
23                 regulatory requirement relating to providing in-  
24                 surance as an agent or broker that treats a na-  
25                 tional bank differently than all other persons

1           who are authorized to provide insurance as  
2           agents or brokers in such State, unless there is  
3           a legitimate and reasonable State regulatory  
4           purpose for the requirement for which there is  
5           no less restrictive alternative.

6           “(B) PROVIDING INSURANCE AS PRIN-  
7           CIPAL, AGENT, OR BROKER.—

8           “(i) No State may impose on a na-  
9           tional bank any insurance regulatory re-  
10          quirement relating to providing insurance  
11          as principal, agent, or broker that treats  
12          the national bank more restrictively than  
13          any other depository institution (as defined  
14          in section 3(c)(1) of the Federal Deposit  
15          Insurance Act, 12 U.S.C. 1813(c)(1)) op-  
16          erating in the State.

17          “(ii) Nothing in this subparagraph  
18          shall affect the validity of a State law  
19          that—

20               “(I) prevents a national bank  
21               from engaging in insurance activities  
22               within the State to as great an extent  
23               as a savings association (as defined in  
24               section 3(b)(1) of the Federal Deposit  
25               Insurance Act, 12 U.S.C. 1813(b)(1))



1                   may engage in such activities within  
2                   the State; and

3                   “(II) was in effect on June 1,  
4                   1995.

5                   “(C) LICENSING QUALIFICATIONS AND  
6                   PROCEDURES.—No State may discriminate  
7                   against a national bank with respect to the fol-  
8                   lowing requirements, procedures, and qualifica-  
9                   tions as such requirements, procedures, and  
10                  qualifications relate to the authority of the na-  
11                  tional bank to provide insurance in such State  
12                  as an agent or broker:

13                  “(i) License application and process-  
14                  ing procedures.

15                  “(ii) Character, experience, and edu-  
16                  cational qualifications for licenses.

17                  “(iii) Testing and examination re-  
18                  quirements for licenses.

19                  “(iv) Fee requirements for licenses.

20                  “(v) Continuing education require-  
21                  ments.

22                  “(vi) Types of licenses required.

23                  “(vii) Standards and requirements for  
24                  renewal of licenses.

1       “(b) AUTHORITY OF THE COMPTROLLER OF THE  
2 CURRENCY.—A national bank may not provide insurance  
3 as a principal, agent, or broker except as specifically pro-  
4 vided in this section, the paragraph designated as the  
5 ‘Seventh’ of section 5136(a) of this chapter, section  
6 5136(b) or 5136B of this chapter, or section 13 of the  
7 Federal Reserve Act.

8       “(c) PRESERVATION OF FEDERALLY AUTHORIZED  
9 BANK ACTIVITIES IN PERMISSIVE STATES.—No provision  
10 of this section may be construed as affecting the authority,  
11 pursuant to section 5136B of this chapter or section 13  
12 of the Federal Reserve Act, of a national bank to act as  
13 insurance agent or broker consistent with State law.

14       “(d) PRESERVATION OF NATIONAL BANK AUTHOR-  
15 ITY CONSISTENT WITH STATE BANK AUTHORITY.—Ex-  
16 cept as provided in subsection (a)(2)(B), no provision of  
17 this section or section 5136(b)(1) shall have the effect of  
18 enabling a State to deny a national bank authority that  
19 the bank otherwise possesses to provide a product in a  
20 State, including as agent, broker, or principal, where the  
21 bank is not providing the product in the State other than  
22 to an extent and in a manner that a State bank (as de-  
23 fined in section 3(a)(2) of the Federal Deposit Insurance  
24 Act, 12 U.S.C. 1813(a)(2)) is permitted by the law of the  
25 State to provide such product, except that nothing in this

1 subsection shall be construed as granting any new author-  
2 ity to a national bank to provide any product because the  
3 law of the State has authorized State banks to provide  
4 such product.

5 “(e) DEFINITIONS.—For purposes of this section,  
6 sections 5136 and 5136B, and section 13 of the Federal  
7 Reserve Act, the following definitions shall apply:

8 “(1) INSURANCE.—The term ‘insurance’ means  
9 any product defined or regulated as insurance, con-  
10 sistent with the relevant State insurance law, by the  
11 insurance regulatory authority of the State in which  
12 such product is sold, solicited, or underwritten, in-  
13 cluding any annuity contract the income on which is  
14 tax deferred under section 72 of the Internal Reve-  
15 nue Code of 1986.

16 “(2) STATE.—The term ‘State’ has the same  
17 meaning as in section 3(a)(3) of the Federal Deposit  
18 Insurance Act.

19 “(f) GRANDFATHER PROVISION.—

20 “(1) IN GENERAL.—Any national bank which—

21 “(A) before January 1, 1995, was provid-  
22 ing insurance as agent or broker under section  
23 13 of the Federal Reserve Act may provide in-  
24 surance as an agent or broker under such sec-  
25 tion, to no less extent and in a no more restric-

1           tive manner as such bank was providing insur-  
2           ance as agent or broker under such section on  
3           January 1, 1995, notwithstanding contrary  
4           State law, subject to final, controlling judgment  
5           in a pending action; or

6           “(B) notwithstanding subparagraph (A), is  
7           a party to a pending action and before January  
8           1, 1995, was providing insurance as agent or  
9           broker under section 13 of the Federal Reserve  
10          Act may provide insurance as an agent or  
11          broker under such section notwithstanding con-  
12          trary State law, subject to final, controlling  
13          judgment in such pending action.

14          “(2) TERMINATION.—This subsection shall  
15          cease to apply with respect to any national bank de-  
16          scribed in paragraph (1) if—

17               “(A) the bank is subject to an acquisition,  
18               merger, consolidation, or change in control,  
19               other than a transaction to which section  
20               18(c)(12) of the Federal Deposit Insurance Act  
21               applies; or

22               “(B) any financial services holding com-  
23               pany which directly or indirectly controls such  
24               bank is subject to an acquisition, merger, con-  
25               solidation, or change in control, other than a

1 transaction in which the beneficial ownership of  
2 such financial services holding company or of a  
3 financial services holding company which con-  
4 trols such company does not change as a result  
5 of the transaction.

6 “(g) PRESERVATION OF BANKING PRODUCTS.—No  
7 provision of this section shall be construed as affecting the  
8 ability of a national bank, or a subsidiary of a national  
9 bank, to engage in any activity, including any activity au-  
10 thorized pursuant to the paragraph designated the “Sev-  
11 enth” of section 5136(a), that is part of, and not merely  
12 incidental to, the business of banking.”.

13 (b) INTERPRETIVE AUTHORITY OF THE COMPTROL-  
14 LER OF THE CURRENCY.—Section 5136 of the Revised  
15 Statutes of the United States (12 U.S.C. 24) is amend-  
16 ed—

17 (1) by striking “Upon duly making and filing  
18 articles of association” and inserting “(a) IN GEN-  
19 ERAL.—Upon duly making and filing articles of as-  
20 sociation”; and

21 (2) by adding at the end the following new sub-  
22 section:

23 “(b) INTERPRETIVE AUTHORITY OF THE COMPTROL-  
24 LER OF THE CURRENCY.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2       it shall not be incidental to banking for a national  
3       bank to provide insurance as a principal, agent, or  
4       broker.

5           “(2) SCOPE OF APPLICATION.—Notwithstand-  
6       ing paragraph (1), it shall be incidental to banking  
7       for a national bank to engage in the following activi-  
8       ties:

9           “(A) Providing, as an agent or broker, any  
10       annuity contract the income on which is tax de-  
11       ferred under section 72 of the Internal Revenue  
12       Code of 1986.

13          “(B) Providing, as a principal, agent, or  
14       broker, any type of insurance, other than an  
15       annuity or title insurance, which the Comptrol-  
16       ler of the Currency specifically determined, be-  
17       fore May 1, 1995, to be incidental to banking  
18       with respect to national banks, except that  
19       paragraph (1) shall not apply with respect to  
20       any national bank providing title insurance as  
21       an agent if the bank was actively and lawfully  
22       engaged in such activity as an agent as of May  
23       15, 1995.”.

24       (c) TECHNICAL AND CONFORMING AMENDMENTS.—

1           (1) The 11th undesignated paragraph of section  
2       13 of the Federal Reserve Act (12 U.S.C. 92) is  
3       amended by inserting “, and subject to section  
4       5136A of the Revised Statutes of the United  
5       States,” after “the laws of the United States”.

6           (2) The paragraph designated the “Seventh” of  
7       section 5136 of the Revised Statutes of the United  
8       States (12 U.S.C. 24) is amended by striking “sub-  
9       ject to law,” and inserting “subject to subsection  
10      (b), section 5136A, and any other provision of law,”.

11          (3) Section 1306 of title 18, United States  
12      Code, is amended by striking “5136A” and inserting  
13      “5136C”.

14          (d) CLERICAL AMENDMENT.—The table of sections  
15      for chapter 1 of title LXII of the Revised Statutes of the  
16      United States is amended—

17           (1) by redesignating the item relating to section  
18      5136A as section 5136C; and

19           (2) by inserting after the item relating to sec-  
20      tion 5136 the following new item:

“5136A. State supervision of insurance.”.

21          (e) PRESERVATION OF FINANCIAL SERVICES HOLD-  
22      ING COMPANY INSURANCE AUTHORITY.—No provision of  
23      this section, and no amendment made by this section to  
24      any other provision of law, may be construed as affecting  
25      the authority of a financial services holding company to

1 engage in insurance agency activity pursuant to section  
2 4(c) of the Financial Services Holding Company Act of  
3 1995.

4 (f) CONGRESSIONAL PURPOSES; SUNSET PROVISION;  
5 CONGRESSIONAL REVIEW.—

6 (1) PURPOSES.—The purposes of this section  
7 are to clarify State authority to regulate and super-  
8 vise bank insurance activities (in addition to the  
9 Federal banking agencies) and to place a morato-  
10 rium on further efforts by the Comptroller of the  
11 Currency to authorize national banks to engage in  
12 new insurance powers without rolling back the sta-  
13 tus quo, except that no provision of this section shall  
14 prohibit national banks, or subsidiaries of national  
15 banks, from engaging in any activity, including any  
16 activity authorized pursuant to the paragraph des-  
17 ignated the “Seventh” of section 5136(a), that is  
18 part of, and not merely incidental to, the business  
19 of banking. Accordingly, it is not the purpose of this  
20 section to affect the ability of a national bank (or a  
21 subsidiary of a national bank) to engage in any core  
22 banking activity.

23 (2) SUNSET OF CERTAIN AUTHORITY.—The  
24 amendments made by this section shall not apply



1 after the end of the 5-year period beginning on the  
2 date of the enactment of this Act.

3 (3) CONGRESSIONAL REVIEW OF DEVELOP-  
4 MENTS IN, AND THE COMPETITIVENESS OF, THE FI-  
5 NANCIAL SERVICE INDUSTRY.—It is the intent of the  
6 Congress to conduct a thorough and ongoing review  
7 of the competitiveness of, and the relationships be-  
8 tween, the banking, securities, and insurance sectors  
9 of the financial services industry during the 5-year  
10 period described in paragraph (2) for the purpose of  
11 determining whether additional legislation is needed.

12 **SEC. 302. NATIONAL BANK COMMUNITY DEVELOPMENT IN-**  
13 **SURANCE ACTIVITIES.**

14 (a) IN GENERAL.—Chapter 1 of Title LXII of the  
15 Revised Statutes of the United States (12 U.S.C. 21 et  
16 seq.) is amended by inserting after section 5136A (as  
17 added by section 440(a) of this Act) the following new sec-  
18 tion:

19 **“SEC. 5136B. INSURANCE SALES IN EMPOWERMENT ZONES.**

20 **“(a) AUTHORITY TO SELL INSURANCE AS AGENT**  
21 **FROM EMPOWERMENT ZONES.—**The Comptroller of the  
22 Currency may approve an application by a national bank  
23 maintaining a main office or full-service branch in an  
24 empowerment zone to act as an agent or broker from such  
25 office or branch for any fire, life, or other insurance com-

1 pany authorized to do business in the State in which the  
2 customer is located if—

3 “(1) the bank provides sufficient evidence that  
4 the availability of competitively priced insurance in  
5 the empowerment zone is inadequate; and

6 “(2) the insurance is sold only in the  
7 empowerment zone.

8 “(b) APPLICATION OF STATE LAW.—State laws  
9 which regulate conducting the business of insurance shall  
10 apply to national banks and their employees that sell in-  
11 surance as agent or broker under this section to the same  
12 extent as such laws apply to other entities and persons  
13 not affiliated with depository institutions except—

14 “(1) in any case in which the Comptroller of  
15 the Currency determines, after notice to and com-  
16 ment by the appropriate State insurance officials,  
17 that the application of a State law would have an  
18 unreasonably discriminatory effect upon the sale of  
19 insurance by national banks or their employees in  
20 comparison with the effect the application of the  
21 State law would have with respect to sale of insur-  
22 ance by other entities; or

23 “(2) when State law by its own terms does not  
24 apply to national banks or employees of such banks.

1       “(c) AUTHORITY OF COMPTROLLER OF THE CUR-  
2 RENCY.—

3           “(1) IN GENERAL.—The Comptroller of the  
4 Currency may prescribe regulations governing sales  
5 of insurance by national banks pursuant to this sec-  
6 tion.

7           “(2) ENFORCEMENT OF STATE LAW.—The pro-  
8 visions of any State law to which a national bank is  
9 subject under this section shall be enforced with re-  
10 spect to such bank by the Comptroller of the Cur-  
11 rency.

12       “(d) DEFINITIONS.—

13           “(1) EMPOWERMENT ZONE.—The term  
14 ‘empowerment zone’ means an area that meets the  
15 standards for designation as an empowerment zone  
16 or enterprise community under section 1392 of the  
17 Internal Revenue Code of 1986 or an Indian res-  
18 ervation.

19           “(2) FULL-SERVICE BRANCH.—The term ‘full-  
20 service branch’ means a staffed facility which has  
21 been approved as a branch and offers loan and de-  
22 posit services.

23           “(3) INDIAN RESERVATION.—The term ‘Indian  
24 reservation’ has the meaning given such term by sec-

1       tion 168(j)(6) of the Internal Revenue Code of  
2       1986.”.

3       (b) CLERICAL AMENDMENT.—The table of sections  
4       for chapter 1 of title LXII of the Revised Statutes of the  
5       United States is amended by inserting after the item relat-  
6       ing to section 5136A (as added by section 440(d) of this  
7       title) the following new item:

“5136B. Insurance sales in empowerment zones.”.

8       **TITLE IV—REDUCTIONS IN GOV-**  
9       **ERNMENT OVERREGULATION**  
10      **Subtitle A—The Home Mortgage**  
11      **Process**

12      **SEC. 401. REGULATORY AUTHORITY OVER DISCLOSURES**  
13                   **AND ESCROW ACCOUNTS UNDER RESPA**  
14                   **TRANSFERRED TO FEDERAL RESERVE**  
15                   **BOARD.**

16      (a) IN GENERAL.—Sections 4, 5, 6, and 10(d) of the  
17      Real Estate Settlement Procedures Act of 1974 (12  
18      U.S.C. 2601 et seq.) are amended by striking “Secretary”  
19      each place such term appears and inserting “Board”.

20      (b) CLARIFICATION OF PURPOSE.—Section 2(b)(2) of  
21      the Real Estate Settlement Procedures Act of 1974 (12  
22      U.S.C. 2601(b)(2)) is amended by inserting the following  
23      before the semicolon at the end: “without—

24                   “(A) directly regulating settlement services  
25                   prices; or

1           “(B) directly regulating wages to bona fide  
2           employees that are not designed as a subterfuge  
3           to facilitate kickbacks among affiliated compa-  
4           nies”.

5           (c) BOARD DEFINED.—Section 3 of the Real Estate  
6           Settlement Procedures Act of 1974 (12 U.S.C. 2602) is  
7           amended—

8           (1) by striking “and” at the end of paragraph  
9           (7);

10          (2) by striking the period at the end of para-  
11          graph (8) and inserting “; and”; and

12          (3) by adding at the end the following new  
13          paragraph:

14               “(9) the term ‘Board’ means the Board of Gov-  
15               ernors of the Federal Reserve System.”.

16           (d) NEGOTIATED REGULATIONS UNDER SECTIONS 8  
17           AND 9.—Section 8 of the Real Estate Settlement Proce-  
18           dures Act of 1974 (12 U.S.C. 2607) is amended by adding  
19           at the end the following new subsection:

20               “(e) NEGOTIATED REGULATIONS.—

21               “(1) IN GENERAL.—The Secretary may not  
22               publish a proposed or final regulation under this sec-  
23               tion and section 9 after the date of the enactment  
24               of the Financial Services Competitiveness and Regu-  
25               latory Relief Act of 1995 unless the Secretary has

1       used the negotiated rulemaking procedure estab-  
2       lished under subchapter III of chapter 5 of title 5,  
3       United States Code, to attempt to negotiate and de-  
4       velop the rule.

5           “(2) CONSISTENCY WITH PURPOSE.—Any regu-  
6       lation prescribed in accordance with paragraph (1)  
7       shall be consistent with the purposes of this title as  
8       set forth in section 2.”.

9       (e) ADMINISTRATIVE ENFORCEMENT OF PROHIBI-  
10      TION AGAINST KICKBACKS AND UNEARNED FEES.—Sec-  
11      tion 8 of the Real Estate Settlement Procedures Act of  
12      1974 (12 U.S.C. 2607) is amended by adding after sub-  
13      section (e) (as added by subsection (d) of this section) the  
14      following new subsection:

15      “(f) ADMINISTRATIVE ENFORCEMENT.—

16           “(1) IN GENERAL.—Compliance with the re-  
17      quirements of this section and sections 9 and 12  
18      shall be enforced under this Act—

19           “(A) in the case of an insured depository  
20      institution (as defined in section 3 of the Fed-  
21      eral Deposit Insurance Act), by the appropriate  
22      Federal banking agency (as defined in such sec-  
23      tion);

24           “(B) in the case of an insured credit union  
25      (as defined in section 101(7) of the Federal

1 Credit Union Act), by the National Credit  
2 Union Administration;

3 “(C) in the case of a financial services  
4 holding company (as defined in section 2 of the  
5 Financial Services Holding Company Act of  
6 1995) and any affiliate of any such holding  
7 company (other than an insured depository in-  
8 stitution), by the Board;

9 “(D) in the case of a savings and loan  
10 holding company (as defined in section 10 of  
11 the Home Owners’ Loan Act) and any affiliate  
12 of any such holding company (other than an in-  
13 sured depository institution), by the Director of  
14 the Office of Thrift Supervision; and

15 “(E) in the case of any other person, by  
16 the Secretary.

17 “(2) SPECIAL RULES RELATING TO DETER-  
18 MINATION OF APPROPRIATE REGULATOR.—

19 “(A) CASES OF MORE THAN 1 APPRO-  
20 PRIATE REGULATOR.—If, under paragraph (1),  
21 a company may be regulated by more than 1  
22 agency, the Board shall determine which agency  
23 shall be the responsible agency, notwithstanding  
24 paragraph (1).

1           “(B) CASES INVOLVING JOINT VENTURES,  
2           PARTNERSHIPS, AND OTHER AFFILIATED BUSI-  
3           NESS ARRANGEMENTS.—If any insured deposi-  
4           tory institution is involved in a joint venture,  
5           partnership, or other affiliated business ar-  
6           rangement with any person who is not an in-  
7           sured depository institution, the agency respon-  
8           sible for enforcing this section and sections 9  
9           and 12 with respect to such insured depository  
10          institution shall be the agency with such re-  
11          sponsibility with respect to such joint venture,  
12          partnership, or other affiliated business ar-  
13          rangement.

14          “(3) INTERAGENCY COOPERATION AND EN-  
15          FORCEMENT GUIDELINES.—All the agencies referred  
16          to in any subparagraph of paragraph (1) shall co-  
17          operate with each other to develop enforcement  
18          guidelines and other means for achieving effective  
19          compliance with this section and sections 9 and 12.

20          “(4) PREFERENCE FOR CIVIL ENFORCEMENT  
21          OVER CRIMINAL ENFORCEMENT.—As part of the co-  
22          operative efforts required under paragraph (3), the  
23          agencies referred to in paragraph (1) shall consider  
24          means for achieving compliance with this section and  
25          section 9 through the exercise of administrative en-



1        enforcement authority under this subsection without  
2        resorting to criminal enforcement actions under sub-  
3        section (d) except in appropriate cases.

4            “(5) EFFECTIVE DATE.—Paragraphs (1) and  
5        (2) shall not take effect until joint interagency co-  
6        operation and enforcement guidelines are adopted by  
7        all the agencies to which paragraphs (1) and (2)  
8        apply and the enforcement authority of the Sec-  
9        retary with respect to this section and sections 9 and  
10       12 shall continue until such paragraphs take ef-  
11       fect.”.

12        (f) INCREASED SCIENTER REQUIREMENT FOR CRIMI-  
13       NAL PENALTY.—Section 8(d) of the Real Estate Settle-  
14       ment Procedures Act of 1974 (12 U.S.C. 2607(d)) is  
15       amended—

16            (1) in paragraph (1), by inserting “willfully”  
17        after “persons who”; and

18            (2) in paragraph (3), by striking “was not in-  
19        tentional and”.

20        (g) REDESIGNATION OF CONTROLLED BUSINESS AR-  
21       RANGEMENTS AS AFFILIATED BUSINESS ARRANGE-  
22       MENTS.—The Real Estate Settlement Procedures Act of  
23       1974 (12 U.S.C. 2601 et seq.) is amended—

1           (1) in section 3(7), by striking “controlled busi-  
2           ness arrangement” and inserting “affiliated business  
3           arrangement”; and

4           (2) in subsections (c)(4) and (d)(6) of section  
5           8, by striking “controlled business arrangements”  
6           and inserting “affiliated business arrangements”.

7           (h) TECHNICAL AND CONFORMING AMENDMENTS.—

8           (1) Section 4(a) of the Real Estate Settlement  
9           Procedures Act of 1974 (12 U.S.C. 2603(a)) is  
10          amended by striking “Federal Home Loan Bank  
11          Board” and inserting “Director of the Office of  
12          Thrift Supervision”.

13          (2) Section 8(d)(4) of the Real Estate Settle-  
14          ment Procedures Act of 1974 (12 U.S.C.  
15          2607(d)(4)) is amended by inserting “any other  
16          agency described in subsection (f)(1),” after “the  
17          Secretary,”.

18          (3) Section 10(c)(1)(C) of the Real Estate Set-  
19          tlement Procedures Act of 1974 (12 U.S.C.  
20          2609(c)(1)(C)) is amended by striking “Not later  
21          than the expiration of the 90-day period beginning  
22          on the date of the enactment of the Cranston-Gon-  
23          zalez National Affordable Housing Act, the” and in-  
24          serting “The”.

1           (4) Section 16 of the Real Estate Settlement  
2           Procedures Act of 1974 (12 U.S.C. 2614) is amend-  
3           ed by striking “Secretary,” and inserting “Board, an  
4           agency referred to in any subparagraph of section  
5           8(f)(1),”.

6           (5) Section 18 of the Real Estate Settlement  
7           Procedures Act of 1974 (12 U.S.C. 2616) is amend-  
8           ed—

9                   (A) by striking “Secretary is authorized  
10                  to” and inserting “Board and Secretary may  
11                  jointly”;

12                  (B) by striking “Secretary” each place  
13                  such term appears other than the 1st place and  
14                  inserting “Board and Secretary”; and

15                  (C) by striking “determines that such  
16                  laws” and inserting “determine that such  
17                  laws”.

18           (6) Section 19(a) of the Real Estate Settlement  
19           Procedures Act of 1974 (12 U.S.C. 2617(a)) is  
20           amended to read as follows:

21           “(a) REGULATIONS.—

22                   “(1) IN GENERAL.—Subject to paragraph (2),  
23                  the Secretary and the Board may prescribe such  
24                  regulations, make such interpretations, and grant  
25                  such reasonable exemptions for classes of trans-

1 actions, as may be necessary to achieve the purposes  
2 of this Act.

3 “(2) APPLICATION.—

4 “(A) BOARD.—The authority of the Board  
5 under paragraph (1) shall apply with respect  
6 to—

7 “(i) sections 4, 5, 6, 10, and 12; and

8 “(ii) sections 3, 7, 17, and 18 to the  
9 extent such sections are applicable with re-  
10 spect to the sections described in clause (i).

11 “(B) SECRETARY.—The authority of the  
12 Secretary under paragraph (1) shall apply with  
13 respect to—

14 “(i) sections 8 and 9; and

15 “(ii) sections 3, 7, 17, and 18 to the  
16 extent such sections are applicable with re-  
17 spect to the sections described in clause  
18 (i).”.

19 (7) Section 19(b) of the Real Estate Settlement  
20 Procedures Act of 1974 (12 U.S.C. 2617(b)) is  
21 amended by inserting “, the Board,” after “the Sec-  
22 retary”.

23 (8) Section 19(c) of the Real Estate Settlement  
24 Procedures Act of 1974 (12 U.S.C. 2617(c)) is  
25 amended—

1 (A) in paragraph (1)—

2 (i) by striking “Secretary” the 1st  
3 place such term appears and inserting  
4 “Board, with respect to any action to en-  
5 force section 4, 5, 6, or 10, and each agen-  
6 cy referred to in any subparagraph of sec-  
7 tion 8(f)(1), with respect to any action to  
8 enforce section 8, 9, or 12,”; and

9 (ii) by striking “Secretary” each place  
10 such term appears other than the 1st place  
11 and inserting “Board or such other agen-  
12 cy”; and

13 (B) in paragraph (2), by striking “Sec-  
14 retary” and inserting “Board or an agency re-  
15 ferred to in any subparagraph of section  
16 8(f)(1)”.

17 (9) The heading for section 19 of the Real Es-  
18 tate Settlement Procedures Act of 1974 (12 U.S.C.  
19 2617) is amended to read as follows:

20 “AUTHORITY OF THE SECRETARY AND THE FEDERAL  
21 RESERVE BOARD”.

22 (i) REPEAL OF OBSOLETE PROVISIONS.—The Real  
23 Estate Settlement Procedures Act of 1974 (12 U.S.C.  
24 2601 et seq.) is amended by striking sections 13, 14, and  
25 15.

1 **SEC. 402. SIMPLIFICATION AND UNIFICATION OF DISCLO-**  
2 **SURES REQUIRED UNDER RESPA AND TILA**  
3 **FOR MORTGAGE TRANSACTIONS.**

4 (a) IN GENERAL.—With respect to credit trans-  
5 actions which are subject to the Real Estate Settlement  
6 Procedures Act of 1974 and the Truth in Lending Act,  
7 the Board of Governors of the Federal Reserve System  
8 shall take such action as may be necessary before the end  
9 of the 3-month period beginning on the date of the enact-  
10 ment of this Act—

11 (1) to simplify the disclosures applicable to such  
12 transactions under such Acts, including the timing  
13 of the disclosures; and

14 (2) to provide a single format for such disclo-  
15 sures which will satisfy the requirements of each  
16 such Act with respect to such transactions.

17 (b) REGULATIONS.—To the extent that it is nec-  
18 essary to prescribe any regulation in order to effect any  
19 changes required to be made under subsection (a), the pro-  
20 posed regulation shall be published in the Federal Register  
21 before the end of the 3-month period referred to in sub-  
22 section (a).

23 (c) RECOMMENDATIONS FOR LEGISLATION.—If the  
24 Board of Governors of the Federal Reserve System finds  
25 that legislative action may be necessary or appropriate in  
26 order to simplify and unify the disclosure requirements

1 under the Real Estate Settlement Procedures Act of 1974  
2 and the Truth in Lending Act, the Board shall submit  
3 a report containing recommendations to the Congress con-  
4 cerning such action.

5 **SEC. 403. INCREASED REGULATORY FLEXIBILITY UNDER**  
6 **THE TRUTH IN LENDING ACT.**

7 (a) REGULATORY FLEXIBILITY.—Section 104 of the  
8 Truth in Lending Act (15 U.S.C. 1603) is amended by  
9 adding at the end the following new paragraph:

10 “(7) Transactions for which the Board, by reg-  
11 ulation, determines that coverage under the Act is  
12 not needed to carry out the purposes of the Act.”.

13 (b) EXEMPTIVE AUTHORITY.—Section 105 of the  
14 Truth in Lending Act (15 U.S.C. 1604) is amended—

15 (1) by redesignating subsections (b), (c), and  
16 (d) as subsections (c), (d), and (e), respectively; and

17 (2) by inserting after subsection (a) the follow-  
18 ing new subsection:

19 “(b) EXEMPTIVE AUTHORITY.—

20 “(1) IN GENERAL.—The Board shall exempt  
21 from all or parts of this title any class of trans-  
22 actions for which, in the Board’s judgment, coverage  
23 under all or part of this title does not provide a  
24 measurable benefit to consumers in the form of use-  
25 ful information or protection.

1           “(2) FACTORS TO BE CONSIDERED.—In deter-  
2           mining which classes of transactions to exempt in  
3           whole or in part, the Board shall consider, among  
4           other factors, the following:

5                   “(A) The amount of the loan or closing  
6                   costs and whether the disclosures, right of re-  
7                   scission, and other provisions are necessary,  
8                   particularly for small loans.

9                   “(B) Whether the requirements of this title  
10                  complicate, hinder, or make more expensive the  
11                  credit process for the class of transactions.

12                  “(C) The status of the borrower, including,  
13                  the borrowers’ related financial arrangements,  
14                  the financial sophistication of the borrower rel-  
15                  ative to the type of transaction, and the impor-  
16                  tance of the credit and related supporting prop-  
17                  erty to the borrower.”.

18 **SEC. 404. REDUCTIONS IN RESPA REGULATORY BURDENS;**

19 **CLARIFYING AMENDMENTS.**

20           (a) UNNECESSARY DISCLOSURE.—Section 6(a) of the  
21 Real Estate Settlement Procedures Act of 1974 (12  
22 U.S.C. 2605) is amended to read as follows:

23           “(a) DISCLOSURE TO APPLICANT RELATING TO AS-  
24 SIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—



1           “(1) IN GENERAL.—Each person who makes a  
2       federally related mortgage loan shall disclose to each  
3       person who applies for any such loan, at the time of  
4       application for the loan, whether the servicing of any  
5       such loan may be assigned, sold, or transferred to  
6       any other person at any time while such loan is out-  
7       standing.

8           “(2) SIGNATURE OF APPLICANT.—Any disclo-  
9       sure of the information required under paragraph  
10      (1) shall not be effective for purposes of this section  
11      unless the disclosure is accompanied by a written  
12      statement, in such form as the Secretary shall de-  
13      velop before the expiration of the 180-day period be-  
14      ginning on the date of the enactment of the Finan-  
15      cial Services Competitiveness and Regulatory Relief  
16      Act of 1995, that the applicant has read and under-  
17      stood the disclosure and that is evidenced by the sig-  
18      nature of the applicant at the place where such  
19      statement appears in the application.”.

20      (b) EFFECTIVE DATE.—The amendments made by  
21      subsection (a) shall take effect 180 days after the date  
22      of the enactment of this Act.

23      (c) SECOND MORTGAGES.—Section 3(1)(A) of the  
24      Real Estate Settlement Procedures Act of 1974 (12

1 U.S.C. 2602(1)(A)) is amended by striking “or subordi-  
2 nate”.

3 (d) CONSISTENCY OF RESPA AND TRUTH IN LEND-  
4 ING ACT EXEMPTION OF BUSINESS LOANS.—Section 7 of  
5 the Real Estate Settlement Procedures Act of 1974 (12  
6 U.S.C. 2606) is amended—

7 (1) by inserting “(a) IN GENERAL.—” before  
8 “This Act”; and

9 (2) by inserting at the end the following new  
10 subsection:

11 “(b) INTERPRETATION.—In issuing regulations pur-  
12 suant to section 19(a) of this Act, the Board shall ensure  
13 that, with regard to subsection (a), the exemption for busi-  
14 ness credit includes all business credit which is exempt  
15 from the Truth in Lending Act in accordance with section  
16 226.3(a) of the regulations prescribed by the Board known  
17 as ‘regulation Z’ (12 C.F.R. 226.3(a)), as in effect on the  
18 date of enactment of the Financial Services Competitive-  
19 ness and Regulatory Relief Act of 1995.”.

20 **SEC. 405. DISCLOSURES FOR ADJUSTABLE RATE MORT-**  
21 **GAGES.**

22 (a) IN GENERAL.—Section 127A(a)(2)(G) of the  
23 Truth in Lending Act (15 U.S.C. 1637a(a)(2)(G)) is  
24 amended by inserting before the semicolon “, or a state-  
25 ment that the monthly payment may increase or decrease

1 significantly due to increases in the annual percentage  
2 rate”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
4 Section 127A(b)(3) of the Truth in Lending Act (15  
5 U.S.C. 1637a(b)(3)) is amended by striking “required  
6 under” and inserting “referred to in”.

7 (c) ALTERNATIVE TO HISTORICAL EXAMPLE.—Sec-  
8 tion 128(a) of the Truth in Lending Act (15 U.S.C.  
9 1638(a)) is amended by inserting at the end the following  
10 new paragraph:

11 “(14) In any variable rate transaction secured  
12 by the consumer’s principal dwelling with a term  
13 greater than 1 year, at the creditors’ option, a state-  
14 ment that the monthly payment may increase or de-  
15 crease substantially, or a historical example illustrat-  
16 ing the effects of interest rate changes implemented  
17 according to the loan program.”.

18 (d) ENSURING HONORING OF LOCK-IN PROMISES.—  
19 Section 128(b) of the Truth in Lending Act (15 U.S.C.  
20 1638(b)) is amended by adding at the end the following  
21 new paragraph:

22 “(3) In the case of a residential mortgage trans-  
23 action, the disclosures under subsection (a) shall include  
24 the following:

1           “(A) The note rate and points, and a state-  
2           ment, if applicable, that these terms are subject to  
3           change.

4           “(B) A statement that the creditor must in-  
5           clude the disclosed note rate and points in the credit  
6           agreement unless, in relation to either or both of  
7           those terms—

8                   “(i) the disclosure clearly and conspicu-  
9                   ously indicates that the term is subject to  
10                  change, or

11                  “(ii) in the case of any term to which  
12                  clause (i) does not apply—

13                           “(I) the creditor has clearly and con-  
14                           spicuously indicated that the term is condi-  
15                           tioned on closing the transaction within a  
16                           prescribed time;

17                           “(II) the creditor has promptly and  
18                           clearly communicated to the consumer the  
19                           information and documentation that the  
20                           consumer is required to provide to the  
21                           creditor; and

22                           “(III) the consumer has failed to pro-  
23                           vide such information and documentation  
24                           within a reasonable time after receiving  
25                           that communication.”.

1 **SEC. 406. TREATMENT OF CERTAIN DEBT CANCELLATION**  
2 **AND DEFICIENCY WAIVER CONTRACTS.**

3 Section 106(c) of the Truth in Lending Act (15  
4 U.S.C. 1605(c)) is amended to read as follows:

5 “(c) TREATMENT OF CERTAIN DEBT CANCELLATION  
6 AND DEFICIENCY WAIVER CONTRACTS.—Charges or pre-  
7 miums for any insurance or for any voluntary  
8 noninsurance product, written in connection with any  
9 consumer credit transaction, that provides protections  
10 against loss of or damage to property or against part or  
11 all of the debtor’s liability for amounts in excess of the  
12 value of the collateral securing the debtor’s obligation, or  
13 against liability arising out of the ownership or use of  
14 property, shall be included in the finance charge unless  
15 a clear and specific statement in writing is furnished by  
16 the creditor to the person to whom the credit is extended,  
17 setting forth the cost of the insurance or product if ob-  
18 tained from or through the creditor, and stating that the  
19 person to whom credit is extended may choose the person  
20 through which the insurance or product is to be ob-  
21 tained.”.

22 **SEC. 407. RECOVERY OF FEES.**

23 Section 125(b) of the Truth in Lending Act (15  
24 U.S.C. 1635) is amended—

1 (1) in the 1st sentence, by inserting “, except  
2 any charge for an appraisal report or credit report”  
3 after “other charge”; and

4 (2) in the 2d sentence, by striking “otherwise”  
5 and inserting “as otherwise required under this sub-  
6 section”.

7 **SEC. 408. HOME OWNERSHIP DEBT COUNSELING NOTIFICA-**  
8 **TION.**

9 Section 106(c) of the Housing and Urban Develop-  
10 ment Act of 1968 (12 U.S.C. 1701x(c)) is amended by  
11 striking paragraph (5).

12 **SEC. 409. HOME MORTGAGE DISCLOSURE ACT.**

13 (a) Section 309 of the Home Mortgage Disclosure  
14 Act of 1975 (12 U.S.C. 2808) is amended—

15 (1) in the 2d sentence, by striking  
16 “\$10,000,000” and inserting “\$50,000,000”; and

17 (2) by inserting at the end the following new  
18 sentences: “The Board may also, by regulation, ex-  
19 empt from the provisions of this Act institutions  
20 specified in section 303(2)(A) which have total as-  
21 sets as of their last full fiscal year of \$50,000,000  
22 or greater where the burden of complying with this  
23 Act on such institutions outweighs the usefulness of  
24 the information required to be disclosed. The exemp-  
25 tions provided under this section shall not be appli-

1 cable to an institution which the Board, by order,  
2 has found a reasonable basis to believe is not fulfill-  
3 ing its obligations to serve the housing needs of the  
4 communities and neighborhoods in which it is lo-  
5 cated. An institution subject to such an order shall  
6 be required to comply with the requirements of this  
7 Act for loans made after the time that the order is  
8 issued at such time and for such period as the  
9 Board deems appropriate. The dollar amount in this  
10 section shall be adjusted annually after December  
11 31, 1994, by the annual percentage increase in the  
12 Consumer Price Index for Urban Wage Earners and  
13 Clerical Workers published by the Bureau of Labor  
14 Statistics.”.

15 (b) Section 304 of the Home Mortgage Disclosure  
16 Act of 1975 (12 U.S.C. 2803) is amended by adding at  
17 the end the following new subsection:

18 “(m) OPPORTUNITY TO REDUCE COMPLIANCE BUR-  
19 DEN.—

20 “(1) A depository institution shall be considered  
21 to have satisfied the public availability requirements  
22 of subsection (a) if such institution keeps the infor-  
23 mation required under that subsection at its home  
24 office and provides notice at the branch locations  
25 specified in such subsection that such information is

1 available upon request from the home office of the  
2 institution. A home office of the depository institu-  
3 tion receiving a request for such information pursu-  
4 ant to this subsection shall provide the information  
5 pertinent to the location of the branch in question  
6 within fifteen days of the receipt of the written re-  
7 quest.

8 “(2) In complying with paragraph (1), a deposi-  
9 tory institution may provide the individual request-  
10 ing such information, at the institution’s choice,  
11 with—

12 “(A) a paper copy of the information re-  
13 quested; or

14 “(B) if acceptable to the individual, the in-  
15 formation through a form of electronic medium,  
16 such as computer disc.”.

17 **Subtitle B—Community**  
18 **Reinvestment Act Amendments**

19 **SEC. 421. EXPRESSION OF CONGRESSIONAL INTENT.**

20 Subsection (b) of section 802 of the Community Rein-  
21 vestment Act of 1977 (12 U.S.C. 2901) is amended to  
22 read as follows:

23 “(b) It is the purpose of this title to require each ap-  
24 propriate Federal financial supervisory agency to use its  
25 authority, when examining financial institutions, to en-



1 courage such institutions to help meet the credit needs of  
2 the local communities in which they are chartered consist-  
3 ent with the safe and sound operation of such institutions.  
4 When examining financial institutions, a supervisory agen-  
5 cy shall not impose additional burden, recordkeeping, or  
6 reporting upon such institutions.”.

7 **SEC. 422. INCREASED INCENTIVES FOR LENDING TO LOW-**  
8 **AND MODERATE-INCOME COMMUNITIES.**

9 (a) IN GENERAL.—Section 804(b) of the Community  
10 Reinvestment Act of 1977 (12 U.S.C. 2903(b)) is amend-  
11 ed to read as follows:

12 “(b) POSITIVE CONSIDERATION OF CERTAIN LOANS  
13 AND INVESTMENTS.—In assessing and taking into ac-  
14 count the records of a regulated financial institution under  
15 subsection (a), the appropriate Federal financial super-  
16 visory agency shall—

17 “(1) consider as a positive factor, consistent  
18 with the safe and sound operation of the institution,  
19 the institution’s investment in or loan to—

20 “(A) any minority depository institution or  
21 women’s depository institution (as such terms  
22 are defined in section 808(b)) or any low-in-  
23 come credit union;

24 “(B) any joint venture or other entity or  
25 project which promotes the public welfare in

1 any distressed community (as defined by such  
2 agency) whether or not the distressed commu-  
3 nity is located in the local community in which  
4 the regulated financial institution is chartered  
5 to do business; and

6 “(C) targeted low- and moderate-income  
7 communities, including real property loans to  
8 such communities; and

9 “(2) consider equally with other factors capital  
10 investment, loan participation, and other ventures  
11 undertaken by the institution in cooperation with—

12 “(A) minority- and women-owned financial  
13 institutions and low-income credit unions to the  
14 extent that these activities help meet the credit  
15 needs of the local communities in which such  
16 institutions are chartered; and

17 “(B) community development corporations  
18 in extending credit and other financial services  
19 principally to low- and moderate-income persons  
20 and small businesses to the extent that such  
21 community development corporations help meet  
22 the credit needs of the local communities served  
23 by the majority-owned institution.”.

24 (b) AMENDMENT TO DEFINITIONS.—Section 803 of  
25 the Community Reinvestment Act of 1977 (12 U.S.C.

1 2902) is amended by inserting after paragraph (5) (as  
 2 added by section 425(b) of this subtitle) the following new  
 3 paragraph:

4 “(6) STATE BANK SUPERVISOR.—The term  
 5 ‘State bank supervisor’ has the same meaning as in  
 6 section 3(r) of the Federal Deposit Insurance Act.”.

7 (c) TECHNICAL CORRECTION.—The 1st of the 2  
 8 paragraphs designated as paragraph (2) of section 803 of  
 9 the Community Reinvestment Act of 1977 (12 U.S.C.  
 10 2902) is amended to read as follows:

11 “(D) the Director of the Office of Thrift  
 12 Supervision with respect to any savings associa-  
 13 tion (the deposits of which are insured by the  
 14 Federal Deposit Insurance Corporation) and  
 15 any savings and loan holding company (other  
 16 than a company which is a financial services  
 17 holding company);”.

18 **SEC. 423. PROHIBITION ON ADDITIONAL REPORTING**  
 19 **UNDER CRA.**

20 Section 806 of the Community Reinvestment Act of  
 21 1977 (12 U.S.C. 2905) is amended to read as follows:

22 **“SEC. 806. REGULATIONS.**

23 “(a) IN GENERAL.—

24 “(1) PUBLICATION REQUIREMENT.—Regula-  
 25 tions to carry out the purposes of this title shall be

1 published by each appropriate Federal financial su-  
2 pervisory agency.

3 “(2) PROHIBITION ON ADDITIONAL RECORD-  
4 KEEPING.—Regulations prescribed and policy state-  
5 ments, commentary, examiner guidance, or other su-  
6 pervisory material issued under this title shall not  
7 impose any additional recordkeeping on a financial  
8 institution.

9 “(3) PROHIBITION ON LOAN DATA COLLEC-  
10 TION.—No loan data may be required to be collected  
11 and reported by a financial institution and no such  
12 data may be made public by any Federal financial  
13 supervisory agency under this title.”.

14 **SEC. 424. TECHNICAL AMENDMENT.**

15 Section 807(b)(1)(B) of the Community Reinvest-  
16 ment Act (12 U.S.C. 2906) is amended by striking “The  
17 information” and inserting “In the case of a regulated fi-  
18 nancial institution that maintains domestic branches in 2  
19 or more States, the information”.

20 **SEC. 425. CRA CONGRESSIONAL OVERSIGHT.**

21 (a) SENSE OF CONGRESS RELATING TO AGGRESSIVE  
22 OVERSIGHT.—It is the sense of the Congress that the ap-  
23 propriate committees of the House of Representatives and  
24 the Senate should exercise aggressive oversight of the  
25 adoption and implementation of any regulation by any ap-

1 appropriate Federal financial supervisory agency under the  
2 Community Reinvestment Act of 1977 after the date of  
3 the enactment of this Act.

4 (b) AGENCY REPORTS REQUIRED.—

5 (1) IN GENERAL.—Each appropriate Federal fi-  
6 nancial supervisory agency shall submit a report to  
7 the Congress by December 31, 1996, and by Decem-  
8 ber 31, 1997, on the implementation of all regula-  
9 tions prescribed by such agency under the Commu-  
10 nity Reinvestment Act of 1977 after the date of the  
11 enactment of this Act.

12 (2) REQUIREMENTS RELATING TO PREPARA-  
13 TION OF REPORTS.—In preparing each report re-  
14 quired under paragraph (1), each appropriate Fed-  
15 eral financial supervisory agency shall—

16 (A) solicit and include comments from reg-  
17 ulated financial institutions with respect to the  
18 regulations which are the subject of the report;  
19 and

20 (B) include quantifiable measures of the  
21 cost savings achieved under the regulations  
22 which are the subject of the report and the ef-  
23 fectiveness of such regulations in achieving the  
24 purposes of the Community Reinvestment Act  
25 of 1977.

1           (3) DEFINITIONS.—For purposes of this sec-  
2           tion, the terms “appropriate Federal financial super-  
3           visory agency” and “regulated financial institution”  
4           have the same meanings as in section 803 of the  
5           Community Reinvestment Act of 1977.

6 **SEC. 426. CONSULTATION AMONG EXAMINERS.**

7           Section 10 of the Federal Deposit Insurance Act (12  
8           U.S.C. 1820) is amended by adding at the end the follow-  
9           ing new subsection:

10          “(j) CONSULTATION AMONG EXAMINERS.—

11               “(1) IN GENERAL.—Each appropriate Federal  
12           banking agency shall take such action as may be  
13           necessary to ensure that examiners employed by the  
14           agency—

15                       “(A) consult on examination activities with  
16                       respect to any depository institution; and

17                       “(B) achieve an agreement and resolve any  
18           inconsistencies on the recommendations to be  
19           given to such institution as a consequence of  
20           any examinations.

21               “(2) EXAMINER-IN-CHARGE.—Each agency  
22           shall consider appointing an examiner-in-charge with  
23           respect to a depository institution to ensure con-  
24           sultation on examination activities among all of the

1       agency’s examiners involved in examinations of such  
2       institution.”.

3       **SEC. 427. LIMITATION ON REGULATIONS.**

4       Section 806 of the Community Reinvestment Act of  
5       1977 (12 U.S.C. 2905) (as amended by section 423) is  
6       amended by adding at the end the following new sub-  
7       sections:

8       “(b) LIMITATION ON REGULATIONS.—No regulation  
9       may be prescribed under this title by any Federal agency  
10      which would—

11           “(1) require any regulated financial institution  
12      to—

13                   “(A) make any loan or enter into any  
14                   other agreement on the basis of any discrimina-  
15                   tory criteria prohibited under any law of the  
16                   United States; or

17                   “(B) make any loan to, or enter into any  
18                   other agreement with, any uncreditworthy per-  
19                   son that would jeopardize the safety and sound-  
20                   ness of such institution; or

21           “(2) prevent or hinder in any way a financial  
22      institution’s full responsibility to provide credit to all  
23      segments of the community.

24      “(c) ENCOURAGE LOANS TO CREDITWORTHY BOR-  
25      ROWERS.—Regulations prescribed under this title shall en-

1 courage regulated financial institutions to make loans and  
2 extend credit to all creditworthy persons, consistent with  
3 safety and soundness.”.

## 4       **Subtitle C—Consumer Banking** 5                               **Reforms**

### 6       **SEC. 441. TRUTH IN SAVINGS.**

7           (a) PURPOSE.—Section 262 of the Truth in Savings  
8 Act (12 U.S.C. 4301) is amended to read as follows:

#### 9       **“SEC. 262. PURPOSE.**

10           “It is the purpose of this subtitle to ensure that con-  
11 sumers can make a meaningful comparison between the  
12 competing claims of depository institutions with regard to  
13 deposit accounts by requiring that institutions offering in-  
14 terest-bearing accounts pay interest on the full amount of  
15 principal each day in a consumer deposit account at the  
16 rate agreed to be paid by the institution.”.

17           (b) PROHIBITION ON MISLEADING OR INACCURATE  
18 ADVERTISEMENTS AND DISCLOSURES.—Section 263 is  
19 amended to read as follows:

#### 20       **“SEC. 263. PROHIBITION ON MISLEADING OR INACCURATE** 21                               **ADVERTISEMENTS AND DISCLOSURES.**

22           “No depository institution or deposit broker shall  
23 make any advertisement, announcement, solicitation or  
24 disclosure relating to a deposit account that is inaccurate  
25 or misleading, including any inaccurate or misleading de-



1 scription of a free or no-cost account, or that misrep-  
2 sents its deposit contracts.”.

3 (c) ACCOUNT INFORMATION UPON OPENING AN AC-  
4 COUNT.—Section 264 of the Truth in Savings Act (12  
5 U.S.C. 4304) is amended to read as follows:

6 **“SEC. 264. ACCOUNT INFORMATION.**

7 “(a) IN GENERAL.—Each depository institution shall  
8 disclose fees, charges, penalties, and interest rates applica-  
9 ble to each class of accounts offered by the institution in  
10 accordance with this section.

11 “(b) INFORMATION ON FEES AND CHARGES.—Each  
12 depository institution shall disclose the following informa-  
13 tion with respect to any account to a consumer at the time  
14 the account is opened, or at such earlier time as a  
15 consumer may request (and no additional information may  
16 be required to be disclosed under this subtitle by regula-  
17 tion or otherwise with respect to such account):

18 “(1) A description of all fees, periodic service  
19 charges, penalties, and interest rates which may be  
20 charged or assessed against the account (or against  
21 the account holder in connection with such account),  
22 the amount of any such fees, charges, or penalties  
23 (or the method by which such amount will be cal-  
24 culated), and the conditions under which any such  
25 amount will be assessed.

1           “(2) All minimum balance requirements that af-  
2       fect fees, charges, and penalties, including a clear  
3       description of how each such minimum balance is  
4       calculated.

5           “(3) Any minimum amount required with re-  
6       spect to the initial deposit in order to open the ac-  
7       count.

8           “(c) INFORMATION ON INTEREST RATES.—The dis-  
9       closures required under subsections (a) and (b) with re-  
10      spect to any account shall include the following informa-  
11      tion:

12           “(1) Any annual rate of simple interest.

13           “(2) The frequency with which interest will be  
14      compounded and credited.

15           “(d) NO REGULATIONS AUTHORIZED.—No regula-  
16      tions may be prescribed with respect to this section by the  
17      Board or any agency referred to in this title, including  
18      any regulation to define any terms used in this section.”.

19           (d) DISCLOSURE OF CHANGE IN TERMS.—Section  
20      265 of the Truth in Savings Act (12 U.S.C. 4304) is  
21      amended to read as follows:

22      **“SEC. 265. DISCLOSURE OF CHANGE IN TERMS.**

23           “If any change is made in any item required to be  
24      disclosed under section 264, all account holder who may  
25      be affected by such change shall be notified by mail and

1 provided with a description of such change at least 30  
2 days before the effective date of the change.”.

3 (e) REPEAL OF SECTIONS.—Sections 266, 268, 271,  
4 and 273 of the Truth in Savings Act (12 U.S.C. 4304,  
5 4305, 4307, 4310, and 4312, respectively) are hereby re-  
6 pealed.

7 (f) REDESIGNATION OF SECTIONS.—Section 267,  
8 270, 272 of the Truth in Savings Act (12 U.S.C. 4306,  
9 4309, and 4311) are redesignated as sections 266, 268,  
10 and 269, respectively.

11 (g) REDESIGNATION AND AMENDMENT OF SECTION  
12 269.—Section 269 of the Truth in Savings Act (12 U.S.C.  
13 4308) (as determined before the redesignation made by  
14 subsection (f) of this section) is amended to read as fol-  
15 lows:

16 **“SEC. 267. REGULATIONS.**

17 “(a) IN GENERAL.—The Board, after consultation  
18 with each agency referred to in section 268(a) and public  
19 notice and opportunity for comment, shall prescribe regu-  
20 lations to carry out the purpose and provisions of this sub-  
21 title.

22 “(b) EFFECTIVE DATE OF REGULATIONS.—The pro-  
23 visions of this subtitle shall not apply with respect to any  
24 depository institution before the effective date of regula-  
25 tions prescribed by the Board under this subsection.”

1 (h) REDESIGNATION AND AMENDMENT OF SECTION  
2 274.—Section 274 of the Truth in Savings Act (12 U.S.C.  
3 4313) is amended to read as follows:

4 **“SEC. 270. DEFINITIONS.**

5 “For the purposes of this subtitle, the following defi-  
6 nitions shall apply:

7 “(1) ACCOUNTS.—The term ‘account’ means  
8 any account intended for use by and generally used  
9 by a consumer primarily for personal, family, or  
10 household purposes that is offered by a depository  
11 institution.

12 “(2) DEPOSIT BROKER.—The term ‘deposit  
13 broker’—

14 “(A) has the meaning given to such term  
15 in section 29(f)(1) of the Federal Deposit In-  
16 surance Act; and

17 “(B) includes any person who solicits any  
18 amount from any other person for deposit in an  
19 insured depository institution.

20 “(3) DEPOSITORY INSTITUTION.—The term ‘de-  
21 pository institution’—

22 “(A) means an institution described in  
23 clause (i), (ii), (iii), (iv), (v), or (vi) of section  
24 19(b)(1)(A) of the Federal Reserve Act; and

1           “(B) does not include nonautomated credit  
2           unions which were not required to comply with  
3           the requirements of this title as of the date of  
4           the enactment of the Financial Services Com-  
5           petitiveness and Regulatory Relief Act of 1995  
6           pursuant to the determination of the National  
7           Credit Union Administration Board.

8           “(4) INTEREST.—The term ‘interest’ includes  
9           dividends paid with respect to share accounts which  
10          are accounts within the meaning of paragraph (1).

11          “(5) BOARD.—The term ‘Board’ means the  
12          Board of Governors of the Federal Reserve Sys-  
13          tem.”.

14          (i) EFFECTIVE DATE.—

15               (1) IN GENERAL.—The amendments made by  
16               this section shall take effect on the effective date of  
17               regulations prescribed by the Board of Governors of  
18               the Federal Reserve System to implement such  
19               amendments.

20               (2) AUTHORITY TO ISSUE REGULATIONS.—Not-  
21               withstanding paragraph (1), the Board of Governors  
22               of the Federal Reserve System shall prescribe regu-  
23               lations in accordance with the amendment made by  
24               subsection (g).

1           (3) CONTINUED APPLICABILITY OF PROVISIONS  
2           UNTIL EFFECTIVE DATE OF NEW REGULATIONS.—  
3           The Truth in Savings Act, as in effect on the day  
4           before the date of the enactment of this Act, shall  
5           continue to apply on and after such date until the  
6           effective date of the amendments to such Act under  
7           this section.

8   **SEC. 442. INFORMATION SHARING.**

9           Section 18 of the Federal Deposit Insurance Act (12  
10          U.S.C. 1828) is amended by inserting after subsection (s)  
11          (as added by section 107(a)) of this Act) the following new  
12          subsection:

13          “(t) CUSTOMER ACCESS TO PRODUCTS.—

14                 “(1) IN GENERAL.—Notwithstanding any other  
15          provision of law, any depository institution, or any  
16          affiliate or subsidiary of any depository institution,  
17          may share or exchange information or otherwise  
18          transfer information between or among themselves  
19          without any restriction or limitation if it is clearly  
20          and conspicuously disclosed that the information  
21          may be communicated among such persons and the  
22          consumer is given the opportunity, before the time  
23          that the information is initially communicated, to di-  
24          rect that such information not be communicated  
25          among such persons.

1           “(2) DEFINITION.—For purposes of this sub-  
2           section, the term ‘information’ means any and all  
3           data, records, or other information and material ob-  
4           tained or maintained by any depository institution or  
5           any affiliate or subsidiary thereof in the ordinary  
6           course of its business that relates in any way to a  
7           person (as such term is defined in section 603(b) of  
8           the Fair Credit Reporting Act) who applies for,  
9           maintains, or has maintained an account or credit  
10          relationship with or applied for, purchased or ob-  
11          tained other products or services from any deposi-  
12          tory institution or any affiliate or subsidiary of any  
13          depository institution, regardless of the source of  
14          manner in which the information is obtained or fur-  
15          nished.

16          “(3) RULE OF CONSTRUCTION.—Any depository  
17          institution, or any affiliate or subsidiary of any de-  
18          pository institution, relying on this subsection shall  
19          not be deemed to be a consumer reporting agency,  
20          user, or third party, and the information itself shall  
21          not constitute a consumer report, within the mean-  
22          ing of the Fair Credit Reporting Act or other similar  
23          law.”.

1 **SEC. 443. ELECTRONIC FUND TRANSFER ACT CLARIFICA-**  
2 **TION.**

3 (a) DEFINITION OF ACCEPTED CARD OR OTHER  
4 MEANS OF ACCESS.—Section 903(1) of the Electronic  
5 Fund Transfer Act (15 U.S.C. 1693a(1)) is amended by  
6 inserting before the semicolon at the end the following:  
7 “, but such term does not include a card, device, or com-  
8 puter that a person may use to pay for transactions  
9 through use of value stored on, or assigned to, the card,  
10 device, or computer itself, except for those transactions  
11 where such card, device, or computer is actually used to  
12 access an account to effect such transaction”.

13 (b) DEFINITION OF ACCOUNT.—Section 903(2) of  
14 the Electronic Fund Transfer Act (15 U.S.C. 1693a(2))  
15 is amended by inserting before the semicolon at the end  
16 the following: “and does not include any value which is  
17 stored on, or assigned to, a card, device, or computer itself  
18 that enables a person to pay for transactions through use  
19 of that stored value”.

20 **SEC. 444. LIMIT ON RESTITUTION FOR TRUTH IN LENDING**  
21 **VIOLATIONS IF SAFETY AND SOUNDNESS OF**  
22 **VIOLATOR WOULD BE AFFECTED.**

23 Section 108(e)(3)(A) of the Truth in Lending Act (15  
24 U.S.C. 1607(e)(3)(A)) is amended—



1 (1) by striking “in any such case, the agency  
2 may require” and inserting “in any such case, the  
3 agency may (i) require”;

4 (2) by striking “, except that with respect to  
5 any transaction consummated after the effective  
6 date of section 608 of the Truth in Lending Sim-  
7 plification and Reform Act, the agency shall” and  
8 inserting “; or (ii)”;

9 (3) by striking “reasonable,” and inserting  
10 “reasonable if, in the case of an agency referred to  
11 in paragraph (1), (2), or (3) of subsection (a), the  
12 agency determines that a partial adjustment or the  
13 making of partial payments over an extended period  
14 is necessary to avoid causing the creditor to become  
15 undercapitalized (as determined in accordance with  
16 regulations prescribed by such agency under section  
17 38 of the Federal Deposit Insurance Act);”.

## 18 **Subtitle D—Equal Credit** 19 **Opportunity Act Amendments**

### 20 **SEC. 451. SHORT TITLE.**

21 This subtitle may be cited as the “Equal Credit Op-  
22 portunity Act Amendments of 1995”.

### 23 **SEC. 452. FINDINGS AND PURPOSE.**

24 (a) FINDINGS.—The Congress finds that both the  
25 Equal Credit Opportunity Act (15 U.S.C. 1691, et seq.)

1 and the Fair Credit Reporting Act (15 U.S.C. 1681, et  
2 seq.) contain requirements that applicants for consumer  
3 credit be given certain information in the event that ad-  
4 verse action is taken on the application. These require-  
5 ments differ in both scope and content and for that reason  
6 are confusing to both the consumer who receives the infor-  
7 mation and the party required to furnish the information.

8 (b) PURPOSE.—It is the purpose of this subtitle to  
9 combine and simplify the adverse action notification re-  
10 quirements of the Equal Credit Opportunity Act and the  
11 Fair Credit Reporting Act regarding applications for  
12 consumer credit and to make the information that is re-  
13 quired to be furnished more understandable.

14 **SEC. 453. EQUAL CREDIT OPPORTUNITY ACT AMEND-**  
15 **MENTS.**

16 (a) NOTICE OF ADVERSE ACTION.—Section  
17 701(d)(2)(B) of the Equal Credit Opportunity Act (15  
18 U.S.C. 1691(d)(2)(B)) is amended to read as follows:

19 “(B) giving written notification of adverse  
20 action which discloses—

21 “(i) the applicant’s right to a state-  
22 ment of reasons within 30 days after re-  
23 ceipt by the creditor of a request made  
24 within 60 days after such notification;

1           “(ii) if credit is denied or the charge  
2           for such credit is increased either wholly or  
3           partly because of information contained in  
4           a consumer report from a consumer re-  
5           porting agency—

6                       “(I) that fact and the name, ad-  
7                       dress, and telephone number of the  
8                       consumer reporting agency making  
9                       the report;

10                      “(II) the consumer’s right to ob-  
11                      tain, under section 612, a free copy of  
12                      a consumer report on the consumer,  
13                      from the consumer reporting agency  
14                      referred to in subclause (I) within the  
15                      30-day period provided under such  
16                      section; and

17                      “(III) the consumer’s right to  
18                      dispute, under section 611, with a  
19                      consumer reporting agency the accu-  
20                      racy or completeness of any informa-  
21                      tion in a consumer report furnished  
22                      by the agency.

23           “(iii) if credit is denied or the charge  
24           for credit is increased either wholly or  
25           partly because of information obtained

1 from a person other than a consumer re-  
2 porting agency bearing upon the consum-  
3 er's credit worthiness, credit standing,  
4 credit capacity, character, general reputa-  
5 tion, personal characteristics or mode of  
6 living, that fact and the right to receive  
7 disclosure of the nature of the information  
8 so received, within a reasonable period of  
9 time, upon the consumer's written request  
10 for information within 60 days after learn-  
11 ing of such adverse action; and

12 “(v) the identity of the person or of-  
13 fice from which such notification may be  
14 obtained.

15 Such statement of reasons may be given orally  
16 if the written notification advises the applicant  
17 of his right to have the statement of reasons  
18 confirmed in writing on written request.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
20 Section 701(d)(3) of the Equal Credit Opportunity Act  
21 (15 U.S.C. 1691(d)(3)) is amended by striking the period  
22 at the end and adding the following: “and, to the extent  
23 applicable, the name, address, and telephone number of  
24 the consumer reporting agency identified in accordance  
25 with the requirements of subsection (d)(3)(ii) and a state-

1 ment of the right to obtain disclosure of the nature of the  
2 information upon which adverse action was taken as re-  
3 quired by such subsection.”.

4 (c) REASONABLE PROCEDURES TO ASSURE COMPLI-  
5 ANCE.—Section 706 of the Equal Credit Opportunity Act  
6 (15 U.S.C. 1691e) is amended by adding at the end the  
7 following new subsection:

8 “(l) REASONABLE PROCEDURES TO ASSURE COM-  
9 PLIANCE.—No person shall be held liable for any violation  
10 of subsection 701(d) if such person shows by a preponder-  
11 ance of the evidence that at the time of the alleged viola-  
12 tion the person maintained reasonable procedures to as-  
13 sure compliance with the provisions of the subsection.”.

14 **SEC. 454. FAIR CREDIT REPORTING ACT AMENDMENTS.**

15 (a) Section 615(a) of the Fair Credit Reporting Act  
16 (15 U.S.C. 1681m(a)) is amended by striking “credit or”  
17 each place such term appears.

18 (b) Section 615 of the Fair Credit Reporting Act (15  
19 U.S.C. 1681m) is amended by striking subsection (b) and  
20 redesignating subsection (c) as subsection (b).

21 (c) Section 615(b) (as redesignated by this section)  
22 of the Fair Credit Reporting Act (15 U.S.C. 1681m(b))  
23 is amended by striking “subsections (a) and (b)” and in-  
24 serting “subsection (a)”.

1 **SEC. 455. INCENTIVES FOR SELF-TESTING.**

2 (a) EQUAL CREDIT OPPORTUNITY.—

3 (1) IN GENERAL.—The Equal Credit Oppor-  
4 tunity Act (15 U.S.C. 1691 et seq.) is amended by  
5 inserting after section 704 the following new section:

6 **“SEC. 704A. INCENTIVES FOR SELF-TESTING AND SELF-**  
7 **CORRECTION.**

8 “(a) IN GENERAL.—If a creditor—

9 “(1) conducts, or authorizes an independent  
10 third party to conduct, a self-test of the creditor’s  
11 lending or any part of the creditor’s lending oper-  
12 ations in order to determine the level or effectiveness  
13 of compliance with this title by the creditor; and

14 “(2) has identified discriminatory practices and  
15 has taken or is taking appropriate corrective actions  
16 to address the discrimination,

17 any report or results of such a self-test may not be ob-  
18 tained or used by any applicant, department, or agency  
19 in any proceeding or civil action brought under this title.

20 “(b) RESULTS OF SELF-TESTING.—No provision of  
21 this section shall be construed as preventing an applicant,  
22 department, or agency from obtaining and using the re-  
23 sults of any self-testing in any proceeding or civil action  
24 brought under this title if—

1           “(1) the creditor or any other entity conducted  
2           such activity at the request of a department or agen-  
3           cy;

4           “(2) the creditor or any other entity, or any  
5           person acting on behalf of the creditor or other en-  
6           tity—

7                   “(A) voluntarily releases or discloses all, or  
8                   any part of, such results; or

9                   “(B) refers to or describes such results as  
10                  a defense to charges of unlawful discrimination  
11                  against such creditor, person, or entity; or

12           “(3) the results are sought by the applicant, de-  
13           partment, or agency by means of a discovery request  
14           for the purposes of determining an appropriate pen-  
15           alty or remedy for a violation of this title.

16           “(c) REGULATIONS.—The appropriate Federal de-  
17           partment or agency shall prescribe regulations, after no-  
18           tice and opportunity for comment, which determine what  
19           types of ‘self-tests’ are sufficiently extensive so as to con-  
20           stitute a determination of the level or effectiveness of a  
21           creditor’s compliance with this title.”.

22           (2) REFERRALS TO THE ATTORNEY GEN-  
23           ERAL.—Section 706(g) of the Equal Credit Oppor-  
24           tunity Act (15 U.S.C. 1691e(g)) is amended—

1 (A) by striking “(g) The agencies” and in-  
2 serting “(g) REFERRALS TO THE ATTORNEY  
3 GENERAL.—

4 “(1) IN GENERAL.—The agencies”; and

5 (B) by adding at the end the following new  
6 paragraphs:

7 “(2) LIMITATION ON REFERRALS OF SELF-  
8 TESTING RESULTS.—

9 “(A) IN GENERAL.—No agency shall be re-  
10 quired to refer any report or results of a self-  
11 test relating to any creditor to the Attorney  
12 General if the creditor—

13 “(i) has already identified discrimina-  
14 tory practices as the result of self-testing  
15 instituted by the creditor to determine  
16 compliance with this title; and

17 “(ii) has taken or is taking appro-  
18 priate corrective actions to address the dis-  
19 crimination.

20 “(3) ENFORCEMENT UNDER OTHER LAWS.—No  
21 provision of this section shall be construed as limit-  
22 ing the authority of the agency to enforce the provi-  
23 sions of this title under any other provision of law.”.

24 (3) REFERRALS TO HUD.—Section 706(k) of  
25 the Equal Credit Opportunity Act (15 U.S.C.



1       1691e(k)) is amended by adding at the end the fol-  
2       lowing: “No such agency shall be required to notify  
3       the Secretary of Housing and Urban Development or  
4       the applicant that the agency has reason to believe  
5       that a violation of this title or the Fair Housing Act  
6       occurred if the reason is based on a result of self-  
7       testing instituted by the creditor to determine com-  
8       pliance with this title, and the creditor has already  
9       identified the possible violation and has taken or is  
10      taking appropriate corrective actions to address the  
11      possible violation. No provisions of this section shall  
12      be construed as limiting the authority of the agency  
13      to enforce the provisions of this title under any other  
14      provision of law.”.

15           (4) CLERICAL AMENDMENT.—The table of sec-  
16      tions for title VII of the Consumer Credit Protection  
17      Act is amended by inserting after the item relating  
18      to section 704 the following new item:

“704A. Incentives for self-testing and self-correction.”.

19           (b) FAIR HOUSING.—The Fair Housing Act (42  
20      U.S.C. 3601 et seq.) is amended by inserting after section  
21      814 the following new section:

22      **“SEC. 814A. SELF-TESTING ENHANCEMENT.**

23           “(a) IN GENERAL.—If any person—

24                   “(1) conducts, or authorizes an independent  
25                   third party to conduct, a self-test of that person’s

1 residential real estate related lending activities, or  
2 any part of such activities, in order to determine the  
3 level or effectiveness of compliance with this title by  
4 the person; and

5 “(2) has identified discriminatory practices and  
6 has taken or is taking appropriate corrective actions  
7 to address the discrimination,

8 any report or results of such a self-test may not be ob-  
9 tained or used by any aggrieved person, complainant, de-  
10 partment, or agency in any proceeding or civil action  
11 brought under this title.

12 “(b) RESULTS OF SELF-TESTING.—No provision of  
13 this section shall be construed as preventing an aggrieved  
14 person, complainant, department, or agency from obtain-  
15 ing and using the results of any self-testing as described  
16 in subsection (a) in any proceeding or civil action brought  
17 under this title if—

18 “(1) the creditor or any other entity conducted  
19 such activity at the request of a department or agen-  
20 cy;

21 “(2) the creditor or any other entity, or any  
22 person acting on behalf of the creditor or other en-  
23 tity—

24 “(A) voluntarily releases or discloses all, or  
25 any part of, such results; or

1           “(B) refers to or describes such results as  
2           a defense to charges of unlawful discrimination  
3           against such creditor, person, or entity; or

4           “(3) the results are sought by the aggrieved  
5           person, complainant, department, or agency by  
6           means of a discovery request for the purposes of de-  
7           termining an appropriate penalty or remedy for a  
8           violation of this title.

9           “(c) REGULATIONS.—The appropriate Federal de-  
10          partment or agency shall prescribe regulations, after no-  
11          tice and opportunity for comment, which determine what  
12          types of ‘self-tests’ are sufficiently extensive so as to con-  
13          stitute a determination of the level or effectiveness of a  
14          creditor’s compliance with this title.”.

15       **SEC. 456. CONSULTATION BY ATTORNEY GENERAL RE-**  
16       **QUIRED IN NONREFERRAL CASES.**

17          (a) EQUAL CREDIT OPPORTUNITY.—Section 706(h)  
18          of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h))  
19          is amended by adding at the end the following new sen-  
20          tence: “Before bringing a civil action against any creditor  
21          described in paragraph (1), (2), or (3) of section 704(a),  
22          the Attorney General shall consult with the appropriate  
23          agency under such paragraph.”.

24          (b) FAIR HOUSING ACT.—Section 814(a) of the Fair  
25          Housing Act (42 U.S.C. 3614(a)) is amended by adding

1 at the end the following new sentence: “Before bringing  
2 a civil action under the preceding sentence against any  
3 person or group of persons described in paragraph (1),  
4 (2), or (3) of section 704(a) of the Equal Credit Oppor-  
5 tunity Act with respect to a violation of 805(a) of this  
6 title, the Attorney General shall consult with the appro-  
7 priate agency under such paragraph.”.

8 **SEC. 457. EFFECTIVE DATE.**

9 (a) IN GENERAL.—Except with respect to the re-  
10 quirements of subsection (b), this Act shall take effect at  
11 the end of the 270-day period beginning on the date of  
12 the enactment of this Act.

13 (b) IMPLEMENTING REGULATIONS.—The Board of  
14 Governors of the Federal Reserve System shall prescribe  
15 regulations to implement this Act and such regulations  
16 shall be published in final form before the end of the 180-  
17 day period beginning on the date of the enactment of this  
18 Act.

19 **Subtitle E—Consumer Leasing Act**  
20 **Amendments**

21 **SEC. 461. SHORT TITLE.**

22 This subtitle may be cited as the “Consumer Leasing  
23 Act Amendments of 1995”.

1 **SEC. 462. CONGRESSIONAL FINDINGS AND DECLARATION**  
2 **OF PURPOSE.**

3 (a) FINDINGS.—The Congress finds the following:

4 (1) Competition among the various financial in-  
5 stitutions and other firms engaged in the business of  
6 consumer leasing is greatest when there is informed  
7 use of leasing. The informed use of leasing results  
8 from an awareness of the cost of leasing by consum-  
9 ers.

10 (2) There has been a continued trend toward  
11 leasing automobiles and other durable goods for  
12 consumer use as an alternative to installment credit  
13 sales and that leasing product advances have oc-  
14 curred such that lessors have been unable to provide  
15 consistent industry-wide disclosures to fully account  
16 for the competitive progress that has occurred.

17 (b) PURPOSES.—

18 (1) It is the purpose of this subtitle to assure  
19 a simple, meaningful disclosure of leasing terms so  
20 that the consumer will be able to compare more  
21 readily the various leasing terms available to the  
22 consumer and avoid the uninformed use of leasing,  
23 and to protect the consumer against inaccurate and  
24 unfair leasing practices.

25 (2) To provide for adequate cost disclosures  
26 that reflect the marketplace without impairing com-

1 petition and the development of new leasing prod-  
2 ucts, it is the purpose of this subtitle to provide the  
3 Board with the regulatory authority to assure a sim-  
4 plified, meaningful definition and disclosure of the  
5 terms of certain leases of personal property for per-  
6 sonal, family, or household purposes so as to enable  
7 the lessee to compare more readily the various lease  
8 terms available to the lessee, enable comparison of  
9 lease terms with credit terms where appropriate and  
10 to assure meaningful and accurate disclosures of  
11 lease terms in advertisements.

12 **SEC. 463. REGULATIONS.**

13 (a) IN GENERAL.—Chapter 5 of title I of the  
14 Consumer Credit Protection Act (15 U.S.C. 1601 et seq.)  
15 is amended by adding at the end the following new section:

16 **“SEC. 187. REGULATIONS.**

17 **“(a) REGULATIONS AUTHORIZED.—**

18 **“(1) IN GENERAL.—**The Board shall write reg-  
19 ulations or staff commentary, if appropriate, to up-  
20 date and clarify the requirements and definitions for  
21 lease disclosures, contracts, and any other specific  
22 issues related to consumer leasing which would carry  
23 out the purposes of this chapter, to prevent any cir-  
24 cumvention of the chapter, and to facilitate compli-  
25 ance with the requirements of the chapter.

1           “(2) CLASSIFICATIONS, ADJUSTMENTS.—The  
2       regulations prescribed under paragraph (1) may con-  
3       tain classifications and differentiations and may pro-  
4       vide for adjustments and exceptions for any class of  
5       transaction.

6           “(b) MODEL DISCLOSURES.—The Board shall pub-  
7       lish model disclosure forms and clauses to facilitate com-  
8       pliance with the disclosure requirements and to aid the  
9       consumer in understanding the transaction. In designing  
10      forms, the Board shall consider the use by lessors of data  
11      processing or similar automated equipment. Use of the  
12      models shall be optional. A lessor who properly uses the  
13      material aspects of the models shall be deemed to be in  
14      compliance with the disclosure requirements.

15          “(c) EFFECTIVE DATES.—

16               “(1) IN GENERAL.—Any regulation of the  
17      Board, or any amendment or interpretation of any  
18      regulation of the Board, that requires a disclosure  
19      different from the disclosures previously required  
20      shall have an effective date of the October 1 that fol-  
21      lows the date of promulgation by at least 6 months.

22               “(2) LONGER PERIOD.—The Board may, in the  
23      Board’s discretion, lengthen the period of time re-  
24      ferred to in paragraph (1) to permit lessors to ad-  
25      just their forms to accommodate new requirements.

1           “(3) SHORTER PERIOD.—The Board may also  
 2       shorten the period of time referred to in paragraph  
 3       (1) if the Board makes a specific finding that such  
 4       action is necessary to comply with the findings of a  
 5       court or to prevent unfair or deceptive practices.

6           “(4) COMPLIANCE BEFORE EFFECTIVE DATE.—  
 7       Lessors may comply with any newly promulgated  
 8       disclosure requirement before the effective date of  
 9       such requirement.”.

10       (b) CLERICAL AMENDMENT.—The table of sections  
 11       for chapter 5 of title I of the Consumer Credit Protection  
 12       Act (15 U.S.C. 1601 et seq.) is amended by inserting after  
 13       the item relating to section 186 the following new item:  
       “187. Regulations.”.

14       **SEC. 464. CONSUMER LEASE ADVERTISING.**

15       Section 184 of the Consumer Credit Protection Act  
 16       (15 U.S.C. 1667c) is amended to read as follows:

17       **“SEC. 184. CONSUMER LEASE ADVERTISING.**

18       “(a) IN GENERAL.—If an advertisement for a  
 19       consumer lease states the amount of any payment or  
 20       states that any or no initial payment is required, the ad-  
 21       vertisement must also clearly and conspicuously state the  
 22       following terms, as applicable:

23       “(1) That the transaction advertised is a lease.



1           “(2) The total of initial payments required at  
2           or before consummation of the lease or delivery of  
3           the property, whichever is later.

4           “(3) That a security deposit is required.

5           “(4) The number, amounts, and timing of  
6           scheduled payments.

7           “(5) For a lease in which the consumer’s liabil-  
8           ity at the end of the lease term is based on the an-  
9           ticipated residual value of the property, that an  
10          extra charge may be imposed at the end of the lease  
11          term.

12          “(b) ADVERTISING MEDIUM NOT LIABLE.—Any  
13          owner or personnel of any medium in which an advertise-  
14          ment appears or through which it is disseminated shall  
15          not be liable under this section.”.

16   **SEC. 465. STATUTORY PENALTIES.**

17          Section 185(a) of the Consumer Credit Protection  
18          Act (15 U.S.C. 1667d(a)) is amended by adding at the  
19          end the following new sentence: “Notwithstanding the pre-  
20          ceding sentence, a creditor shall only have liability deter-  
21          mined under section 130(a)(2) for failing to comply with  
22          the requirements of paragraph (2), (8), (9), or (10) of sec-  
23          tion 182 or for failing to comply with disclosure require-  
24          ments under State law for any term which the Board has  
25          determined to be substantially the same in meaning under

1 section 186 as any of the terms referred to in section  
2 182.”.

3           **TITLE V—STREAMLINING**  
4           **GOVERNMENT REGULATIONS**  
5           **Subtitle A—Regulatory Approval**  
6           **Issues**

7   **SEC. 501. STREAMLINED BANK ACQUISITIONS BY WELL**  
8                   **CAPITALIZED AND WELL MANAGED BANKING**  
9                   **ORGANIZATIONS.**

10       Section 3 of the Bank Holding Company Act (12  
11 U.S.C. 1842) is amended by adding at the end the follow-  
12 ing new subsection:

13       “(h) NO APPROVAL REQUIRED FOR CERTAIN TRANS-  
14 ACTIONS.—

15           “(1) IN GENERAL.—Notwithstanding paragraph  
16 (3) or (5) of subsection (a) and subject to para-  
17 graphs (5) and (6), an acquisition of shares by a  
18 registered financial services holding company, or a  
19 merger or consolidation between registered financial  
20 services holding companies, shall be deemed ap-  
21 proved at the conclusion of the period specified in  
22 subparagraph (G) if all of the following conditions  
23 have been met:

24           “(A) FINANCIAL AND MANAGERIAL CRI-  
25 TERIA.—

1           “(i) WELL CAPITALIZED FINANCIAL  
2 SERVICES HOLDING COMPANY.—Both at  
3 the time of and immediately after the pro-  
4 posed transaction, the acquiring financial  
5 services holding company is well capital-  
6 ized.

7           “(ii) WELL CAPITALIZED LEAD IN-  
8 SURED DEPOSITORY INSTITUTION.—Both  
9 at the time of and immediately after the  
10 proposed transaction, the lead insured de-  
11 pository institution of the acquiring finan-  
12 cial services holding company is well cap-  
13 italized.

14           “(iii) CAPITAL OF OTHER INSURED  
15 DEPOSITORY INSTITUTIONS.—At the time  
16 of the transaction, well capitalized insured  
17 depository institutions control at least 80  
18 percent of the aggregate total risk-weight-  
19 ed assets of insured depository institutions  
20 controlled by the acquiring financial serv-  
21 ices holding company.

22           “(iv) NO UNDERCAPITALIZED IN-  
23 SURED DEPOSITORY INSTITUTIONS.—At  
24 the time of the transaction, no insured de-  
25 pository institution controlled by the ac-

1           quiring financial services holding company  
2           is undercapitalized.

3           “(v) WELL MANAGED.—

4                   “(I) IN GENERAL.—At the time  
5                   of the transaction, the acquiring fi-  
6                   nancial services holding company, its  
7                   lead insured depository institution,  
8                   and insured depository institutions  
9                   that control at least 90 percent of the  
10                  aggregate total risk-weighted assets of  
11                  insured depository institutions con-  
12                  trolled by such holding company are  
13                  well managed.

14                  “(II) NO POORLY MANAGED IN-  
15                  STITUTIONS.—Except with respect to  
16                  insured depository institutions de-  
17                  scribed in paragraph (2), no insured  
18                  depository institution controlled by  
19                  the acquiring financial services hold-  
20                  ing company has received 1 of the 2  
21                  lowest composite ratings at the later  
22                  of the institution’s most recent exam-  
23                  ination or subsequent review.

24                  “(B) NO UNSATISFACTORY CRA RAT-  
25                  INGS.—Except with respect to insured deposi-

1 tory institutions described in paragraph (3), no  
2 insured depository institution controlled by the  
3 acquiring financial services holding company  
4 has received a ‘needs to improve’ or ‘substantial  
5 noncompliance’ composite rating as a result of  
6 the institution’s most recent examination under  
7 the Community Reinvestment Act of 1977.

8 “(C) COMPETITIVE CRITERIA.—Con-  
9 summation of the proposal complies with guide-  
10 lines established by the Board by regulation,  
11 after consultation with the Attorney General,  
12 that identify proposals that are not likely to  
13 have a significantly adverse effect on competi-  
14 tion in any relevant market.

15 “(D) SIZE OF ACQUISITION.—

16 “(i) ASSET SIZE.—The book value of  
17 the total assets to be acquired does not ex-  
18 ceed 10 percent of the consolidated total  
19 risk weighted assets of the acquiring finan-  
20 cial services holding company.

21 “(ii) CONSIDERATION.—The gross  
22 consideration to be paid for the securities  
23 or assets does not exceed 15 percent of the  
24 consolidated Tier 1 capital of the acquiring  
25 financial services holding company.

1           “(E) INTERSTATE ACQUISITIONS.—Board  
2 approval of the transaction is not prohibited  
3 under subsection (d).

4           “(F) COMPLIANCE CRITERION.—During  
5 the 12-month period ending on the date of the  
6 transaction, no administrative enforcement ac-  
7 tion has been commenced, and no cease and de-  
8 sist order has been issued pursuant to section  
9 8 of the Federal Deposit Insurance Act, against  
10 any financial services holding company involved  
11 in the transaction or any depository institution  
12 subsidiary of any such holding company and no  
13 such enforcement action, order, or other admin-  
14 istrative enforcement proceeding is pending as  
15 of such date.

16           “(G) OTHER CONSIDERATIONS.—Board  
17 approval of the transaction is not prohibited  
18 under subsection (c)(3).

19           “(H) NOTIFICATION.—The acquiring fi-  
20 nancial services holding company provides writ-  
21 ten notice of the transaction, including a de-  
22 scription of the terms of the transaction, to the  
23 Board and the Attorney General, simulta-  
24 neously, at least 15 business days (or such

1 shorter period as permitted by the Board) be-  
2 fore the transaction is consummated.

3 “(I) NO BOARD DISAPPROVAL.—Before the  
4 end of the 15-day period (or the shorter period)  
5 referred to in subparagraph (H), the Board has  
6 not required an application under subsection  
7 (a).

8 “(2) SPECIAL RULE RELATING TO THE RE-  
9 QUIREMENT FOR WELL MANAGED INSTITUTIONS.—  
10 Insured depository institutions which have been ac-  
11 quired by a financial services holding company dur-  
12 ing the 12-month period preceding the date of the  
13 transaction may be excluded for purposes of para-  
14 graph (1)(A)(v)(II) if—

15 “(A) the financial services holding com-  
16 pany has developed a plan for the institution to  
17 restore the capital and management of the in-  
18 stitution which is acceptable to the appropriate  
19 Federal banking agency; and

20 “(B) all such insured depository institu-  
21 tions represent, in the aggregate, less than 10  
22 percent of the aggregate total risk-weighted as-  
23 sets of all insured depository institutions con-  
24 trolled by the holding company.

1           “(3) SPECIAL RULE RELATING TO THE RE-  
2           QUIREMENT FOR COMMUNITY INVESTMENT.—In-  
3           sured depository institutions acquired during the 12-  
4           month period preceding the date of the transaction  
5           may be excluded for purposes of paragraph (1)(B)  
6           if the financial services holding company has devel-  
7           oped a plan to restore the performance of the insti-  
8           tution to at least a ‘satisfactory’ rating under the  
9           Community Reinvestment Act of 1977 which is ac-  
10          ceptable to the appropriate Federal banking agency.

11          “(4) ADJUSTMENT OF PERCENTAGES.—The  
12          Board may by regulation adjust the percentages and  
13          the manner in which the percentages of insured de-  
14          pository institutions are calculated under subpara-  
15          graph (A)(v)(I) or (D) of paragraph (1) or para-  
16          graph (2)(B) if the Board determines that such ad-  
17          justment is consistent with safety and soundness  
18          and the purposes of this Act.

19          “(5) ADVICE OF ATTORNEY GENERAL.—The  
20          Attorney General shall advise the Board during the  
21          period referred to in paragraph (1)(H) in writing if  
22          any competitive concerns exist with respect to the  
23          transaction.

24          “(6) WAIVER OF POSTAPPROVAL WAITING PE-  
25          RIOD.—If the Attorney General advises the Board



1       that no competitive concerns exist with respect to  
2       the transaction, the provisions of section 11(b) relat-  
3       ing to a postapproval waiting shall not apply with  
4       respect to such transaction.”.

5   **SEC. 502. ELIMINATE FILING AND APPROVAL REQUIRE-**  
6                   **MENTS FOR INSURED DEPOSITORY INSTITU-**  
7                   **TIONS ALREADY CONTROLLED BY THE SAME**  
8                   **HOLDING COMPANY.**

9       (a) BANK MERGER ACT.—Section 18(c) of the Fed-  
10      eral Deposit Insurance Act (12 U.S.C. 1828(c)) is amend-  
11      ed by adding at the end the following new paragraph:

12           “(12) The provisions of this subsection shall  
13      not apply to any merger, consolidation, acquisition  
14      of assets or assumption of liabilities involving only  
15      insured depository institutions that are subsidiaries  
16      of the same depository institution holding company  
17      if—

18           “(A) the responsible agency would not be  
19      prohibited from approving the transaction  
20      under section 44, if applicable;

21           “(B) the acquiring, assuming, or resulting  
22      institution complies with all applicable provi-  
23      sions of section 44, if any, as if the merger,  
24      consolidation, or acquisition were approved  
25      under this subsection;

1           “(C) the acquiring, assuming, or resulting  
2           institution provides written notification of the  
3           transaction to the appropriate Federal banking  
4           agency for the institution at least 10 days prior  
5           to consummation of the transaction; and

6           “(D) after receiving such notice, the agen-  
7           cy does not require the institution to submit an  
8           application with respect to such transaction and  
9           so notifies the institution.”.

10       (b) NATIONAL BANK CONSOLIDATION AND MERGER  
11   ACT.—

12           (1) CONSOLIDATIONS.—Section 2 of the Na-  
13       tional Bank Consolidation and Merger Act (12  
14       U.S.C. 215) is amended—

15           (A) in subsection (a), by adding at the end  
16       the following new sentence:

17       “No approval by the Comptroller of the Currency is re-  
18       quired under this subsection for a transaction which in-  
19       volves the consolidation of banks that, at the time of the  
20       consolidation, are all subsidiaries (as defined in section 3  
21       of the Federal Deposit Insurance Act) of the same com-  
22       pany.”; and

23           (B) in subsection (b)—

1 (i) by striking “, and thereafter the  
2 consolidation shall be approved by the  
3 Comptroller”; and

4 (ii) by striking “when such consolida-  
5 tion is approved by the Comptroller”.

6 (2) MERGERS.—Section 3 of the National Bank  
7 Consolidation and Merger Act (12 U.S.C. 215a) is  
8 amended—

9 (A) in subsection (a), by adding at the end  
10 the following new sentence:

11 “No approval by the Comptroller of the Currency is re-  
12 quired under this subsection for a transaction which in-  
13 volves the merger of banks that, at the time of the merger,  
14 are all subsidiaries (as defined in section 3 of the Federal  
15 Deposit Insurance Act) of the same company.”; and

16 (B) in subsection (b)—

17 (i) by striking “, and thereafter the  
18 merger shall be approved by the Comptrol-  
19 ler”; and

20 (ii) by striking “when such merger  
21 shall be approved by the Comptroller”.

1 **SEC. 503. ELIMINATE REDUNDANT APPROVAL REQUIRE-**  
2 **MENT FOR OAKAR TRANSACTIONS.**

3 (a) IN GENERAL.—Section 5(d)(3) of the Federal  
4 Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amend-  
5 ed—

6 (1) in subparagraph (A), by striking “with the  
7 prior written approval of the responsible agency  
8 under section 18(c)(2)”;

9 (2) in subparagraph (E)—

10 (A) by striking clause (iv) and inserting  
11 the following new clause:

12 “(iv) A transaction shall not be au-  
13 thorized under this paragraph unless the  
14 acquiring, assuming, or resulting depository  
15 institution will meet all applicable capital  
16 requirements upon consummation of  
17 the transaction.”;

18 (B) by striking clauses (i) and (ii); and

19 (C) by redesignating clauses (iii) and (iv)  
20 (as amended by subparagraph (A) of this para-  
21 graph) as clauses (i) and (ii), respectively; and

22 (3) by striking subparagraph (G) and redesign-  
23 ating the subsequent subparagraphs accordingly.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
25 Section 5156A(b)(1) of the Revised Statutes of the United

1 States (12 U.S.C. 215c(b)(1)) is amended by striking  
2 “section 5(d)(3) of the Federal Deposit Insurance Act or”.

3 (c) CLERICAL AMENDMENT.—The heading for sec-  
4 tion 5(d)(3)(E) of the Federal Deposit Insurance Act (12  
5 U.S.C. 1815(d)(3)(E)) is amended by striking “FOR AP-  
6 PROVAL, GENERALLY”.

7 **SEC. 504. ELIMINATION OF DUPLICATIVE REQUIREMENTS**  
8 **IMPOSED UPON FINANCIAL SERVICES HOLD-**  
9 **ING COMPANIES AND OTHER REGULATORY**  
10 **RELIEF UNDER THE HOME OWNERS’ LOAN**  
11 **ACT.**

12 (a) EXEMPTION FOR BANK HOLDING COMPANIES.—  
13 Section 10 of the Home Owners’ Loan Act (12 U.S.C.  
14 1467a) is amended by adding at the end the following new  
15 subsection:

16 “(t) EXEMPTION FOR FINANCIAL SERVICES HOLD-  
17 ING COMPANIES.—This section shall not apply to a finan-  
18 cial services holding company that is subject to the Finan-  
19 cial Services Holding Company Act of 1995 or any com-  
20 pany controlled by such financial services holding company  
21 (other than a savings association).”.

22 (b) DEFINITION OF SAVINGS AND LOAN HOLDING  
23 COMPANY.—Section 10(a)(1)(D) of the Home Owners’  
24 Loan Act (12 U.S.C. 1467a(a)(1)(D)) is amended to read  
25 as follows:

1           “(D) SAVINGS AND LOAN HOLDING COM-  
2           PANY.—

3           “(i) IN GENERAL.—Except as pro-  
4           vided in clause (ii), the term ‘savings and  
5           loan holding company’ means any company  
6           which directly or indirectly controls a sav-  
7           ings association or controls any other com-  
8           pany which is a savings and loan holding  
9           company.

10          “(ii) EXCEPTION FOR FINANCIAL  
11          SERVICES HOLDING COMPANY.—The term  
12          ‘savings and loan holding company’ does  
13          not include any company which is reg-  
14          istered under, and subject to, the provi-  
15          sions of the Financial Services Holding  
16          Company Act of 1995, or any company di-  
17          rectly or indirectly controlled by such com-  
18          pany.”.

19          (c) AMENDMENTS TO THE BANK HOLDING COMPANY  
20          ACT OF 1956.—Section 4(i) of the Bank Holding Com-  
21          pany Act of 1956 (12 U.S.C. 1843(i)) is amended by add-  
22          ing at the end the following new paragraphs:

23          “(4) SOLICITATION OF VIEWS.—

24          “(A) NOTICE TO DIRECTOR.—Upon receiv-  
25          ing any application or notice by a financial

1 services holding company to acquire directly or  
2 indirectly a savings association under sub-  
3 section (c)(8), the Board shall solicit the Direc-  
4 tor's comments and recommendations with re-  
5 spect to such acquisition.

6 “(B) COMMENT PERIOD.—The comments  
7 and views of the Director under subparagraph  
8 (A) with respect to any acquisition subject to  
9 such subparagraph shall be transmitted to the  
10 Board within 30 days of the receipt by the Di-  
11 rector of the notice relating to such acquisition  
12 (or such shorter period as the Board may speci-  
13 fy if the Board advises the Director that an  
14 emergency exists which requires expeditious ac-  
15 tion).

16 “(5) EXAMINATION.—

17 “(A) SCOPE.—The Board shall consult  
18 with the Director, as appropriate, in establish-  
19 ing the scope of an examination by the Board  
20 of a financial services holding company that  
21 controls directly or indirectly a savings associa-  
22 tion.

23 “(B) ACCESS TO INSPECTION REPORTS.—  
24 Upon the request of the Director, the Board  
25 shall furnish the Director with a copy of any in-

1           specification report, additional examination mate-  
 2           rials, or supervisory information relating to any  
 3           financial services holding company which di-  
 4           rectly or indirectly controls a savings associa-  
 5           tion.

6           “(6) COORDINATION OF ENFORCEMENT EF-  
 7           FORTS.—The Board and the Director shall cooper-  
 8           ate in any enforcement action against any financial  
 9           services holding company which controls a savings  
 10          association, if the relevant conduct involves such as-  
 11          sociation.

12          “(7) DIRECTOR DEFINED.—For purposes of  
 13          this section, the term ‘Director’ means the Director  
 14          of the Office of Thrift Supervision.”.

15          (d) ALTERNATIVE TEST.—Section 10(m) of the  
 16          Home Owners’ Loan Act (12 U.S.C. 1467a(m)) is amend-  
 17          ed—

18               (1) in paragraph (1), by striking “(2) and (7)”  
 19               and inserting “(2), (7), and (8)”; and

20               (2) by adding at the end the following new  
 21               paragraph:

22               “(8) ALTERNATIVE TEST.—Any savings asso-  
 23               ciation which meets the requirements set forth in  
 24               section 7701(a)(19)(C) of the Internal Revenue



1 Code of 1986 shall be deemed to be a qualified thrift  
2 lender.”.

3 **SEC. 505. ELIMINATE REQUIREMENT THAT APPROVAL BE**  
4 **OBTAINED FOR DIVESTITURES.**

5 Section 2(g) of the Bank Holding Company Act of  
6 1956 (12 U.S.C. 1841(g)) (as amended by section  
7 118(f)(6)(A) of this Act) is amended—

8 (1) by striking paragraph (3);

9 (2) by inserting “and” after the semicolon at  
10 the end of paragraph (1); and

11 (3) by striking “; and” at the end of paragraph  
12 (2) and inserting a period.

13 **SEC. 506. ELIMINATE UNNECESSARY BRANCH APPLICA-**  
14 **TIONS.**

15 (a) NATIONAL BANK BRANCH APPLICATIONS.—Sec-  
16 tion 5155(i) of the Revised Statutes (12 U.S.C. 36(i)) is  
17 amended—

18 (1) by striking “(i) No branch” and inserting  
19 “(i) RELOCATION.—

20 “(1) APPROVAL REQUIRED.—Except as pro-  
21 vided in paragraph (2), no branch”; and

22 (2) by adding at the end the following new  
23 paragraphs:

24 “(2) NO APPROVAL REQUIRED FOR CERTAIN  
25 BRANCHES.—Notwithstanding this subsection or

1 subsection (b) or (c), the consent and approval of  
2 the Comptroller of the Currency shall not be re-  
3 quired for a national bank to establish and operate,  
4 or to retain and operate, a branch or seasonal agen-  
5 cy if—

6 “(A) the bank is well capitalized (as de-  
7 fined in section 38 of the Federal Deposit In-  
8 surance Act and regulations prescribed by the  
9 Comptroller of the Currency under such sec-  
10 tion);

11 “(B) the bank received a composite  
12 CAMEL rating of ‘1’ or ‘2’ under the Uniform  
13 Financial Institutions Rating System (or an  
14 equivalent rating under a comparable rating  
15 system) as of its most recent examination;

16 “(C) the bank did not receive a ‘needs to  
17 improve’ or ‘substantial noncompliance’ compos-  
18 ite rating at its most recent examination under  
19 the Community Reinvestment Act of 1977; and

20 “(D) the Comptroller of the Currency is  
21 otherwise authorized to grant approval under  
22 this section to such bank to establish and oper-  
23 ate, or to retain and operate, a branch or sea-  
24 sonal agency at the proposed location.

1           “(3) CERTAIN BRANCHES DEEMED TO HAVE  
2       APPROVED APPLICATIONS.—A branch or seasonal  
3       agency established by a national bank under para-  
4       graph (2) shall be deemed to have been established  
5       and operated pursuant to an application approved  
6       under this section.”.

7       (b) STATE MEMBER BANK BRANCH APPLICA-  
8       TIONS.—The third undesignated paragraph of section 9  
9       of the Federal Reserve Act (12 U.S.C. 321) is amended  
10      by adding at the end the following: “Notwithstanding the  
11      preceding 2 sentences, the approval of the Board shall not  
12      be required for a State member bank to establish and op-  
13      erate a branch or seasonal agency if—

14               “(A) the State member bank is well-cap-  
15              italized (as defined in section 38 of the Federal  
16              Deposit Insurance Act and regulations pre-  
17              scribed by the Board under such section);

18               “(B) the State member bank received a  
19              composite CAMEL rating of ‘1’ or ‘2’ under the  
20              Uniform Financial Institutions Rating System  
21              (or an equivalent rating under a comparable  
22              rating system);

23               “(C) the State member bank did not re-  
24              ceive a ‘needs to improve’ or ‘substantial non-  
25              compliance’ composite rating at its most recent

1 examination under the Community Reinvest-  
2 ment Act of 1977; and

3 “(D) the Board is otherwise authorized to  
4 grant approval under this section to such State  
5 member bank to establish and operate a branch  
6 or seasonal agency at the proposed location.

7 A branch or seasonal agency established by a State mem-  
8 ber bank under the previous sentence shall be deemed to  
9 have been established and operated pursuant to an appli-  
10 cation approved under this section.”.

11 (c) STATE NONMEMBER BANK BRANCH APPLICA-  
12 TIONS.—Section 18(d) of the Federal Deposit Insurance  
13 Act (12 U.S.C. 1828(d)) is amended by adding at the end  
14 the following new paragraphs:

15 “(5) APPLICATION EXEMPTION FOR CERTAIN  
16 BANKS.—Notwithstanding paragraph (1), the con-  
17 sent of the Corporation shall not be required for a  
18 State nonmember insured bank to establish and op-  
19 erate any domestic branch if—

20 “(A) the bank is well capitalized (as de-  
21 fined in section 38 and regulations prescribed  
22 by the Corporation under such section);

23 “(B) the bank received a composite  
24 CAMEL rating of ‘1’ or ‘2’ under the Uniform  
25 Financial Institutions Rating System (or an

1 equivalent rating under a comparable rating  
2 system) as of its most recent examination;

3 “(C) the bank did not receive a ‘needs to  
4 improve’ or ‘substantial noncompliance’ compos-  
5 ite rating as result of the bank’s most recent  
6 examination under the Community Reinvest-  
7 ment Act of 1977; and

8 “(D) the Corporation is otherwise author-  
9 ized to give consent under this section to such  
10 bank to establish and operate a domestic  
11 branch at the proposed location.

12 “(6) APPROVAL GRANTED.—A branch estab-  
13 lished by a State member bank under paragraph (5)  
14 shall be deemed to have been established and oper-  
15 ated pursuant to an application approved under this  
16 section.”.

17 **SEC. 507. ELIMINATE BRANCH APPLICATIONS AND RE-**  
18 **QUIREMENTS FOR ATMs AND SIMILAR FA-**  
19 **CILITIES.**

20 (a) DEFINITION OF BRANCH UNDER NATIONAL  
21 BANK ACT.—Section 5155(j) of the Revised Statutes (12  
22 U.S.C. 36(j)) is amended—

23 (1) by striking “(j) The term” and inserting  
24 “(j) BRANCH.—

25 “(1) IN GENERAL.—The term”; and

1           (2) by adding at the end the following new  
2 paragraph:

3           “(2) CERTAIN PROPRIETARY ATMS AND RE-  
4 MOTE SERVICING UNITS.—The term ‘branch’ does  
5 not include any automated teller machine or remote  
6 service unit which is owned and operated by a depos-  
7 itory institution—

8           “(A) primarily for the benefit of the insti-  
9 tution and the affiliates of the institution; and

10           “(B) which could operate a branch at the  
11 location of such machine or unit.”.

12       (b) DEFINITION OF BRANCH UNDER FEDERAL DE-  
13 POSIT INSURANCE ACT.—Section 3(o) of the Federal De-  
14 posit Insurance Act (12 U.S.C. 1813(o)) is amended—

15           (1) by striking “(o) The term” and inserting

16       “(o) DEFINITIONS RELATING TO BRANCHES.—

17           “(1) DOMESTIC BRANCH.—

18           “(A) IN GENERAL.—The term”; and

19           (2) by striking “lent; and the term” and insert-  
20 ing “lent.

21           “(B) CERTAIN PROPRIETARY ATMS AND  
22 REMOTE SERVICING UNITS.—The term ‘domes-  
23 tic branch’ does not include any automated tell-  
24 er machine or remote service unit which is

1 owned and operated by a depository institu-  
2 tion—

3 “(i) primarily for the benefit of the in-  
4 stitution and the affiliates of the institu-  
5 tion; and

6 “(ii) which could operate a branch at  
7 the location of such machine or unit.

8 “(2) FOREIGN BRANCH.—The term”.

9 **SEC. 508. ELIMINATE REQUIREMENT FOR APPROVAL OF IN-**  
10 **VESTMENTS IN BANK PREMISES FOR WELL**  
11 **CAPITALIZED AND WELL MANAGED BANKS.**

12 Section 24A of the Federal Reserve Act (12 U.S.C.  
13 371d) is amended by inserting before the period in that  
14 section the following: “or, in the case of a bank which re-  
15 ceived a composite CAMEL rating of ‘1’ or ‘2’ under the  
16 Uniform Financial Institutions Rating System (or an  
17 equivalent rating under a comparable rating system) as  
18 of its most recent examination and, both before and imme-  
19 diately following the investment or loan, is well capitalized  
20 (as defined under section 38 of the Federal Deposit Insur-  
21 ance Act), the amount which is equal to 150 percent of  
22 the capital stock and surplus of such bank”.

1 **SEC. 509. ELIMINATE UNNECESSARY FILING FOR OFFICER**  
2 **AND DIRECTOR APPOINTMENTS.**

3 Section 32(d) of the Federal Deposit Insurance Act  
4 (12 U.S.C. 1831i(d)) is amended to read as follows:

5 “(d) ADDITIONAL INFORMATION.—

6 “(1) IN GENERAL.—Any notice submitted to an  
7 appropriate Federal banking agency with respect to  
8 an individual by any insured depository institution  
9 or depository institution holding company pursuant  
10 to subsection (a) shall include—

11 “(A) the information described in section  
12 7(j)(6)(A) about the individual; and

13 “(B) such other information as the agency  
14 may prescribe by regulation.

15 “(2) WAIVER.—An appropriate Federal bank-  
16 ing agency may waive the requirement of this section  
17 by regulation or on a case-by-case basis consistent  
18 with safety and soundness.”.

19 **SEC. 510. INCREASE IN CERTAIN CREDIT UNION LOAN**  
20 **CEILINGS.**

21 Section 107(5)(A) of the Federal Credit Union Act  
22 (12 U.S.C. 1757(5)(A)) is amended—

23 (1) in clause (iv), by striking “\$10,000” and in-  
24 serting “\$50,000”; and

25 (2) in clause (v), by striking “\$10,000” and in-  
26 serting “\$50,000”.



1 **Subtitle B—Streamlining of Gov-**  
 2 **ernment Regulations; Mis-**  
 3 **cellaneous Provisions**

4 **SEC. 521. ELIMINATE THE PER-BRANCH CAPITAL REQUIRE-**  
 5 **MENT FOR NATIONAL BANKS AND STATE**  
 6 **MEMBER BANKS.**

7 Section 5155 of the Revised Statutes (12 U.S.C. 36)  
 8 is amended—

9 (1) by striking subsection (h); and

10 (2) by redesignating subsections (i) (as amend-  
 11 ed by section 506(a) of this Act), (j) (as amended  
 12 by section 507(a) of this Act), (k), and (l) as sub-  
 13 sections (h), (i), (j), and (k), respectively.

14 **SEC. 522. BRANCH CLOSURES.**

15 (a) IN GENERAL.—Section 42 of the Federal Deposit  
 16 Insurance Act (12 U.S.C. 1831r-1) is amended by adding  
 17 at the end the following new subsection:

18 “(e) SCOPE OF APPLICATION.—

19 “(1) IN GENERAL.—This section shall not apply  
 20 with respect to—

21 “(A) an automated teller machine;

22 “(B) a branch which—

23 “(i) has been acquired through merg-  
 24 er, consolidation, purchase, assumption, or  
 25 other method; and

1 “(ii) is located—

2 “(I) within 2.5 miles of another  
3 branch of the acquiring institution; or

4 “(II) within a neighborhood cur-  
5 rently being served by another branch  
6 of the acquiring institution,

7 if such other branch of the acquiring institution  
8 is expected to continue to provide banking serv-  
9 ices to substantially all of the customers cur-  
10 rently served by the branch acquired;

11 “(C) a branch which is closing and reopen-  
12 ing at a location which is—

13 “(i) within 2.5 miles of the location of  
14 the branch being closed; or

15 “(ii) within the same neighborhood as  
16 the branch being closed,

17 if the branch at the new location is expected to  
18 continue to provide banking services to substan-  
19 tially all of the customers served by the branch  
20 at the former location;

21 “(D) a branch that is closed in connection  
22 with—

23 “(i) an emergency acquisition under—

24 “(I) section 11(n); or

1 “(II) subsection (f) or (k) of sec-  
2 tion 13; or

3 “(ii) any assistance provided by the  
4 Corporation under section 13(c); and

5 “(E) any other branch closure whose ex-  
6 emption from the notice requirements of this  
7 section would not produce a result inconsistent  
8 with the purposes of this section.

9 “(2) REGULATIONS.—The appropriate Federal  
10 banking agency shall, by regulation, determine the  
11 circumstances under which any exemption under  
12 paragraph(1)(E) may be granted.”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 subsection (a) shall apply as if such amendment had been  
15 included in section 42 of the Federal Deposit Insurance  
16 Act as of the date of the enactment of the Federal Deposit  
17 Insurance Corporation Improvement Act of 1991.

18 **SEC. 523. AMENDMENTS TO THE DEPOSITORY INSTITU-**  
19 **TIONS MANAGEMENT INTERLOCKS ACT.**

20 (a) DUAL SERVICE IN SAME AREA, TOWN, OR VIL-  
21 LAGE.—Section 203 of the Depository Institution Man-  
22 agement Interlocks Act (12 U.S.C. 3202) is amended—

23 (1) by inserting “(a) PROHIBITIONS.—” before  
24 “A management official”; and

1           (2) by adding after subsection (a) the following  
2 new subsection:

3           “(b) SMALL MARKET SHARE EXEMPTION.—

4           “(1) IN GENERAL.—This section shall not be  
5 construed as prohibiting a management official of a  
6 depository institution or depository holding company  
7 from serving as a management official of another de-  
8 pository institution or depository holding company  
9 not affiliated with such institution or holding com-  
10 pany if the depository institutions or depository  
11 holding companies with which the management offi-  
12 cial serves hold, together with all the affiliates of  
13 such institutions or holding companies, in the aggre-  
14 gate no more than 20 percent of the deposits in each  
15 relevant geographic banking market where offices of  
16 the depository institutions or depository holding  
17 companies or their affiliates are located.

18           “(2) RELEVANT GEOGRAPHIC BANKING MARKET  
19 DEFINED.—For purposes of paragraph (1), the term  
20 ‘relevant geographic banking market’ means—

21           “(A) the area defined by the boundaries  
22 identified by the Board of Governors of the  
23 Federal Reserve System;

24           “(B) if the Board has not defined such  
25 boundaries, the area defined by the boundaries

1 of the Ranally Metropolitan Area in which the  
2 office of the depository institution or the depos-  
3 itory institution holding company is located;  
4 and

5 “(C) if the office of such institution or  
6 company is not located within a Ranally Metro-  
7 politan Area, the area defined by the county (or  
8 an equivalent area of general local government)  
9 in which such office is located.”.

10 (b) DUAL SERVICE AMONG LARGER ORGANIZA-  
11 TIONS.—Section 204 of the Depository Institution Man-  
12 agement Interlocks Act (12 U.S.C. 3203) is amended to  
13 read as follows:

14 **“SEC. 204. DUAL SERVICE AMONG LARGER ORGANIZA-**  
15 **TIONS.**

16 “(a) IN GENERAL.—If a depository institution, de-  
17 pository institution holding company, or depository insti-  
18 tution affiliate of any such institution or company has  
19 total assets exceeding \$2,500,000,000, a management offi-  
20 cial of such institution, company, or affiliate may not serve  
21 as a management official of any other depository institu-  
22 tion, depository institution holding company, or depository  
23 institution affiliate of any such institution or company  
24 which—

1           “(1) is not an affiliate of the institution, com-  
2           pany, or affiliate of which such person is a manage-  
3           ment official; and

4           “(2) has total assets exceeding \$1,500,000,000.

5           “(b) CPI ADJUSTMENTS.—The dollar amounts in  
6           this section shall be adjusted annually after December 31,  
7           1994, by the annual percentage increase in the Consumer  
8           Price Index for Urban Wage Earners and Clerical Work-  
9           ers published by the Bureau of Labor Statistics.”.

10          (c) EXTENSION OF GRANDFATHER EXEMPTION.—  
11          Section 206 of the Depository Institution Management  
12          Interlocks Act (12 U.S.C. 3205) is amended—

13               (1) in subsection (a), by striking “for a period  
14               of, subject to the requirements of subsection (c), 20  
15               years after the date of enactment of this title”;

16               (2) in subsection (b), by striking the 2d sen-  
17               tence; and

18               (3) by striking subsection (c).

19          (d) RULES OR REGULATIONS.—Section 209 of the  
20          Depository Institution Management Interlocks Act (12  
21          U.S.C. 3207) is amended—

22               (1) by striking “(a) IN GENERAL.—Rules” and  
23               inserting “Rules”;

24               (2) by inserting “, including rules or regula-  
25               tions which permit service by a management official

1 which would otherwise be prohibited by section 203  
 2 or section 204,” after “title”; and

3 (3) by striking subsections (b) and (c).

4 **SEC. 524. ACCELERATION OF REPAYMENT TO TREASURY.**

5 The Appraisal Subcommittee of the Financial Institu-  
 6 tions Examination Council shall repay to the Secretary of  
 7 the Treasury the funds specified in section 1108 of Finan-  
 8 cial Institutions Reform, Recovery, and Enforcement Act  
 9 of 1989 by not later than September 30, 1998, and the  
 10 Secretary shall deposit such funds in the general fund of  
 11 the Treasury.

12 **SEC. 525. ELIMINATE UNNECESSARY AND DUPLICATIVE**  
 13 **RECORDKEEPING AND REPORTING REQUIRE-**  
 14 **MENTS RELATING TO LOANS TO EXECUTIVE**  
 15 **OFFICERS AND PERMIT PARTICIPATION IN**  
 16 **EMPLOYEE BENEFIT PLANS.**

17 (a) AMENDMENTS TO SECTION 22(h) OF THE FED-  
 18 ERAL RESERVE ACT.—

19 (1) EMPLOYEE BENEFIT PLANS.—Section  
 20 22(h)(2) of the Federal Reserve Act (12 U.S.C.  
 21 375b(2)) is amended—

22 (A) by redesignating subparagraphs (A),  
 23 (B), and (C) as clauses (i), (ii), and (iii), re-  
 24 spectively, and moving the left margins of such  
 25 clauses 2 ems to the right;

1 (B) by striking “(2) PREFERENTIAL  
2 TERMS PROHIBITED.—A member bank” and in-  
3 serting “(2) PREFERENTIAL TERMS PROHIB-  
4 ITED.—

5 “(A) IN GENERAL.—A member bank”; and

6 (C) by adding at the end the following new  
7 subparagraph:

8 “(B) EXCEPTION.—No provision of this  
9 paragraph shall be construed as prohibiting ex-  
10 tensions of credit that constitute a benefit or  
11 compensation program that is widely available  
12 to and used by employees of the member bank,  
13 including employees who are not executive offi-  
14 cers of the bank.”.

15 (2) EXCEPTION FOR EXTENSIONS OF CREDIT  
16 TO EXECUTIVE OFFICERS AND DIRECTORS OF  
17 NONBANK AFFILIATES.—Section 22(h)(8)(B) of the  
18 Federal Reserve Act (12 U.S.C. 375b(8)(B)) is  
19 amended to read as follows:

20 “(B) EXCEPTION.—The Board may, by  
21 regulation, make exceptions to subparagraph  
22 (A) for an executive officer or director of a sub-  
23 sidiary of a company that controls the member  
24 bank if—



1           “(i) the executive officer or director  
2           does not have authority to participate, and  
3           does not participate, in major policymaking  
4           functions of the member bank; and

5           “(ii) the assets of such subsidiary do  
6           not exceed 10 percent of the consolidated  
7           assets of a company that controls the  
8           member bank and such subsidiary (and is  
9           not controlled by any other company).”.

10           (3) RECORDKEEPING REQUIREMENTS.—Section  
11           22(h)(10) of the Federal Reserve Act (12 U.S.C.  
12           375b(10)) is amended by adding at the end the fol-  
13           lowing: “The Board shall specify by regulation the  
14           recordkeeping required of member banks to ensure  
15           compliance with this section.”.

16           (b) REPORTING REQUIREMENTS.—

17           (1) UNNECESSARY REPORTS.—Section 22(g) of  
18           the Federal Reserve Act (12 U.S.C. 375a) is amend-  
19           ed—

20                   (A) by striking paragraphs (6) and (9);  
21                   and

22                   (B) by redesignating paragraphs (7), (8),  
23                   and (10) as paragraphs (8), (9), and (10), re-  
24                   spectively.

1           (2) UNNECESSARY REPORTS.—Section 7 of the  
2       Federal Deposit Insurance Act (12 U.S.C. 1817) is  
3       amended by striking subsection (k).

4           (3) UNNECESSARY REPORTS REGARDING LOANS  
5       FROM CORRESPONDENT BANKS.—Section 106(b)(2)  
6       of the Bank Holding Company Act Amendments of  
7       1970 (12 U.S.C. 1972(2)) is amended—

8                 (A) by striking subparagraph (G); and

9                 (B) by redesignating subparagraphs (H)  
10           and (I) as subparagraphs (G) and (H), respec-  
11           tively.

12       (c) AMENDMENTS RELATING TO LOANS TO EXECU-  
13       TIVE OFFICERS.—Section 22(g) of the Federal Reserve  
14       Act (12 U.S.C. 375a) (as amended by subsection (a) of  
15       this section) is amended—

16                 (1) in paragraph (1)(D), by striking “of any  
17           one of the three categories respectively referred to in  
18           paragraphs (2), (3), and (4)” and inserting “of any  
19           category referred to in paragraph (2), (3), (4), (5),  
20           or (6)”;

21                 (2) by redesignating paragraphs (4) and (5) as  
22           paragraphs (6) and (7), respectively;

23                 (3) by inserting after paragraph (3) the follow-  
24           ing new paragraph:

1           “(4) HOME EQUITY LINES OF CREDIT.—A  
2           member bank may make a revolving open-end exten-  
3           sion of credit to any executive officer of the bank if  
4           the credit—

5                   “(A) does not exceed \$100,000; and

6                   “(B) is secured by a dwelling that is owned  
7           by such officer and used by the officer as a res-  
8           idence.

9           “(5) LOANS SECURED BY MARKETABLE AS-  
10          SETS.—A member bank may extend credit to any  
11          executive officer of the bank if the credit is secured  
12          by readily marketable assets of a value not exceeding  
13          such amount as the Board may establish by regula-  
14          tion.”; and

15          (4) in paragraph (7) (as so redesignated by  
16          paragraph (2) of this subsection) by striking “(4)”  
17          each place such term appears and inserting “(6)”.

18 **SEC. 526. EXPANDED REGULATORY DISCRETION FOR**  
19 **SMALL BANK EXAMINATIONS.**

20          (a) SMALL BANK SIZE DISCRETION.—Section 10(d)  
21 of the Federal Deposit Insurance Act (12 U.S.C. 1820(d))  
22 is amended—

23               (1) by redesignating paragraph (9) as para-  
24          graph (10);

1           (2) by redesignating the 2d of the 2 paragraphs  
2           designated as paragraph (8) as paragraph (9); and  
3           (3) in paragraph (9) (as so redesignated), by  
4           striking “\$175,000,000” and inserting  
5           “\$250,000,000”.

6           (b) INFLATION ADJUSTMENT.—Section 10(d) of the  
7           Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is  
8           amended by inserting after paragraph (10) (as so redesignated  
9           in subsection (a)(1) of this section) the following  
10          new paragraph:

11           “(11) ANNUAL CPI ADJUSTMENT.—The dollar  
12          amount in this section shall be adjusted annually  
13          after December 31, 1994, by the annual percentage  
14          increase in the Consumer Price Index for Urban  
15          Wage Earners and Clerical Workers published by  
16          the Bureau of Labor Statistics.”.

17          (c) COORDINATED FEDERAL AND STATE EXAMINA-  
18          TIONS.—The Federal banking agencies (as defined in sec-  
19          tion 3 of the Federal Deposit Insurance Act) shall submit  
20          semiannual reports to the Congress on the progress made  
21          by such agencies in implementing the requirements of sec-  
22          tion 10(d)(6) of the Federal Deposit Insurance Act until  
23          such agencies submit a final report that—

24                (1) the examination system provided for in such  
25                section is in place; and

1           (2) such system provides for full coordination of  
2       examinations of State depository institutions with  
3       State bank supervisors.

4   **SEC. 527. COST REIMBURSEMENT.**

5       Section 1115 of the Right to Financial Privacy Act  
6   (12 U.S.C. 3415) is amended by inserting “(including cor-  
7   porate customers)” after “pertaining to a customer”.

8   **SEC. 528. IDENTIFICATION OF FOREIGN NONBANK FINAN-**  
9                   **CIAL INSTITUTION CUSTOMERS.**

10       (a) IN GENERAL.—Section 5327(a)(1) of title 31,  
11   United States Code, is amended to read as follows:

12           “(1) is a financial institution (other than a for-  
13       eign bank (as defined in section 101(b) of the Inter-  
14       national Banking Act of 1978)) which is a foreign  
15       person; and”.

16       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
17   The heading for section 5327 of title 31, United States  
18   Code, is amended by inserting “**FOREIGN NONBANK**”  
19   after “**OF**”.

20       (c) CLERICAL AMENDMENT.—The table of sections  
21   for chapter 53 of title 31, United States Code, is amended  
22   by striking the item relating to section 5327 and inserting  
23   the following new item:

“5327. Identification of foreign nonbank financial institutions.”.

1 **SEC. 529. PAPERWORK REDUCTION REVIEW.**

2 Not later than 180 days after the date of enactment  
3 of this Act, each appropriate Federal banking agency and  
4 the National Credit Union Administration, in consultation  
5 with insured depository institutions, insured credit unions,  
6 and other interested parties, shall—

7 (1) review the extent to which current regula-  
8 tions require insured depository institutions and in-  
9 sured credit unions to produce unnecessary internal  
10 written policies; and

11 (2) eliminate such requirements, where appro-  
12 priate.

13 For purposes of this section, the terms “insured deposi-  
14 tory institution” and “appropriate Federal banking agen-  
15 cy” have the same meanings as in section 3 of the Federal  
16 Deposit Insurance Act and the term “insured credit  
17 union” has the same meaning as in section 101(7) of the  
18 Federal Credit Union Act.

19 **SEC. 530. DAILY CONFIRMATIONS FOR HOLD-IN-CUSTODY**  
20 **REPURCHASE TRANSACTIONS.**

21 Before the end of the 1-year period beginning on the  
22 date of the enactment of this Act, the Secretary of the  
23 Treasury shall revise the regulation under section 15C of  
24 the Securities Exchange Act of 1934 relating to the obli-  
25 gations of financial institutions and of brokers and dealer  
26 registered under such Act holding custody of securities

1 subject to a repurchase agreement to confirm, daily and  
2 in writing, the securities that are subject to such repur-  
3 chase agreement. Such revision shall permit the  
4 counterparty to such agreement to waive in writing the  
5 right to obtain such daily written confirmation if the  
6 counterparty has received a clear and conspicuous disclo-  
7 sure before entering into any side agreement, in a form  
8 prescribed by the Secretary, that adequately informs the  
9 counterparty of the benefits of receiving such daily written  
10 confirmations.

11 **SEC. 531. REQUIRED REGULATORY REVIEW OF REGULA-**  
12 **TIONS.**

13 (a) IN GENERAL.—Not less frequently than once  
14 every 10 years, the Financial Institutions Examination  
15 Council (hereafter in this section referred to as the “Coun-  
16 cil”) and each appropriate Federal banking agency (as de-  
17 fined in section 3(q) of the Federal Deposit Insurance  
18 Act) represented on the Council shall conduct a review of  
19 all regulations prescribed by the Council or by any such  
20 agency, respectively, in order to identify outdated or other-  
21 wise unnecessary regulatory requirements imposed upon  
22 insured depository institutions.

23 (b) PROCESS.—In conducting the review under sub-  
24 section (a), the Council or the appropriate Federal bank-  
25 ing agency shall—

1           (1) categorize the regulations by type (such as  
2           consumer regulations, safety and soundness regula-  
3           tions, or such other designations as determined by  
4           the Council); and

5           (2) at regular intervals, provide notice and so-  
6           licit public comment on a particular category or cat-  
7           egories of regulations, requesting commentators to  
8           identify areas of the regulations that are outdated,  
9           unnecessary, or unduly burdensome.

10          (c) COMPLETE REVIEW.—The Council or the appro-  
11         priate Federal banking agency shall ensure that the notice  
12         and comment period described in subsection (b)(2) is con-  
13         ducted with respect to all regulations described in sub-  
14         section (a) not less frequently than once every 10 years.

15          (d) REGULATORY RESPONSE.—The Council or the  
16         appropriate Federal banking agency shall—

17                 (1) publish in the Federal Register a summary  
18                 of the comments received under this section, identi-  
19                 fying significant issues raised and providing com-  
20                 ment on such issues; and

21                 (2) eliminate unnecessary regulations to the ex-  
22                 tent that such action is appropriate.

23          (e) REPORT TO CONGRESS.—Not later than 30 days  
24         after carrying out subsection (d)(1), the Council shall pro-  
25         vide to the Congress a report, which shall include—



1           (1) a summary of any significant issues raised  
2       by public comments received by the Council and the  
3       appropriate Federal banking agencies under this sec-  
4       tion and the relative merits of such issues; and

5           (2) an analysis of whether the appropriate Fed-  
6       eral banking agency involved is able to address the  
7       regulatory burdens associated with such issues by  
8       regulation, or whether such burdens must be ad-  
9       dressed by legislative action.

10 **SEC. 532. COUNTRY RISK REQUIREMENTS.**

11       Subsections (a)(1) and (b) of section 905 of the  
12   International Lending Supervision Act of 1983 (12 U.S.C.  
13   3904) are amended by striking “shall” and inserting  
14   “may”.

15 **SEC. 533. AUDIT COSTS.**

16       (a) IN GENERAL.—

17           (1) AUDITOR ATTESTATIONS.—Section 36 of  
18   the Federal Deposit Insurance At (12 U.S.C.  
19   1831m) is amended—

20           (A) in subsection (a)(2)(A)(ii), by striking  
21       “subsections (c) and (d)” and inserting “sub-  
22       section (c)”;

23           (B) by striking subsections (c) and (e);  
24       and

1 (C) by redesignating subsections (d), (f),  
2 (g), (h), (i), and (j) as subsections (c), (d), (e),  
3 (f), (g), and (h), respectively.

4 (2) PUBLIC AVAILABILITY.—Section 36(a)(3) of  
5 the Federal Deposit Insurance Act (12 U.S.C.  
6 1831m(a)(3)) is amended by inserting at the end the  
7 following new sentence: “Notwithstanding the pre-  
8 ceding sentence, the Corporation and the appro-  
9 priate Federal banking agencies may designate cer-  
10 tain information as privileged and confidential and  
11 not available to the public.”.

12 (b) EXEMPTION FOR WELL-CAPITALIZED AND  
13 WELL-MANAGED INSURED DEPOSITORY INSTITU-  
14 TIONS.—Section 36 of the Federal Deposit Insurance Act  
15 (12 U.S.C. 1831m) (as amended by subsection (a) of this  
16 section) is amended by adding at the end the following  
17 new subsection:

18 “(i) EXEMPTION FOR WELL-CAPITALIZED AND  
19 WELL-MANAGED INSURED DEPOSITORY INSTITU-  
20 TIONS.—No provision of this section other than subsection  
21 (c) shall apply with respect to any insured depository insti-  
22 tution which is well-capitalized and well-managed.”.

23 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

24 (1) Paragraph (1)(B) of section 36(e) of the  
25 Federal Deposit Insurance Act (as so redesignated

1 by subsection (a)(1)(C) of this section) is amended  
2 by striking “(b)(2), (c), and (d)” and inserting  
3 “(b)(2) and (c)”.

4 (2) Paragraph (1) of section 36(g) of the Fed-  
5 eral Deposit Insurance Act (as so redesignated by  
6 subsection (a)(1)(C) of this section) is amended by  
7 striking “(d)” and inserting “(c)”.

8 **SEC. 534. STANDARDS FOR DIRECTOR AND OFFICER LI-**  
9 **ABILITY.**

10 Section 3(u) of the Federal Deposit Insurance Act  
11 (12 U.S.C. 1813(u)) is amended—

12 (1) in paragraph (1), by inserting “(other than  
13 an outside director)” after “director”;

14 (2) in paragraph (3), by inserting “(other than  
15 an outside director)” after “any other person”; and

16 (3) in paragraph (4), by inserting “or outside  
17 director” after “or accountant”).

18 **SEC. 535. FOREIGN BANK APPLICATIONS.**

19 (a) PROVISIONS RELATING TO ESTABLISHMENT OF  
20 BANK OFFICES.—Section 7(d) of the International Bank-  
21 ing Act of 1978 (12 U.S.C. 3105(d)) is amended—

22 (1) in paragraph (2), by striking “The” and in-  
23 serting “Except as provided in paragraph (6), the”;

1           (2) in paragraph (5), by striking “Consistent  
2       with the standards for approval in paragraph (2),  
3       the” and inserting “The”; and

4           (3) by adding at the end the following new  
5       paragraphs:

6           “(6) EXCEPTION.—

7               “(A) IN GENERAL.—If the Board is unable  
8       to find under paragraph (2) that a foreign bank  
9       is subject to comprehensive supervision or regu-  
10      lation on a consolidated basis by the appro-  
11      priate authorities in its home country, the  
12      Board may nevertheless approve an application  
13      under paragraph (1) by such foreign bank if—

14               “(i) the appropriate authorities in the  
15      home country of such foreign bank are  
16      working to establish arrangements for the  
17      consolidated supervision of such bank; and

18               “(ii) all other factors are consistent  
19      with approval.

20           “(B) ADDITIONAL CONDITIONS.—The  
21      Board, after requesting and considering the  
22      views of the appropriate State bank supervisor  
23      or the Comptroller of the Currency, as the case  
24      may be, may impose such conditions or restric-  
25      tions relating to activities or business oper-

1        ations of the proposed branch, agency, or com-  
2        mercial lending company subsidiary, including  
3        restrictions on sources of funding, as are con-  
4        sidered appropriate in the public interest.

5        “(C) MODIFICATION OF CONDITIONS.—

6        Any condition or restriction imposed by the  
7        Board under this subsection in connection with  
8        the approval of an application may be varied or  
9        withdrawn where such modification is consistent  
10      with the public interest.

11      “(7) TIME PERIOD FOR BOARD ACTION.—

12      “(A) FINAL ACTION.—The Board shall  
13      take final action on any application under para-  
14      graph (1) within 180 days of receipt of the ap-  
15      plication, except that the Board may extend for  
16      an additional 180 days the period within which  
17      to take final action on such application, after  
18      providing notice of, and the reasons for, the ex-  
19      tension to the applicant foreign bank and any  
20      appropriate State bank supervisor or the Comp-  
21      troller of the Currency, as the case may be.

22      “(B) FAILURE TO SUBMIT INFORMA-  
23      TION.—The Board may deny any application if  
24      it has not received information requested from  
25      the applicant foreign bank or appropriate au-

1           thorities in the home country in sufficient time  
 2           to permit the Board to evaluate such informa-  
 3           tion adequately within the time periods for final  
 4           action set forth in subparagraph (A).

5           “(C) WAIVER.—A foreign bank may waive  
 6           the applicability of subparagraph (A) with re-  
 7           spect to any such application.”.

8           (b) PROVISION RELATING TO TERMINATION OF  
 9           BANK OFFICES.—Section 7(e)(1)(A) of the International  
 10          Banking Act of 1978 (12 U.S.C. 3105(e)(1)(A)) is amend-  
 11          ed—

12           (1) by striking “(A)” and inserting “(A)(i)”;

13           (2) by striking “; or” and inserting “; and”;

14          and

15           (3) by inserting at the end the following new  
 16          clause:

17           “(ii) the appropriate authorities in the  
 18           home country are not making progress in estab-  
 19           lishing arrangements for the comprehensive su-  
 20           pervision or regulation of such foreign bank on  
 21           a consolidated basis; or”.

22          (c) UNIFORM TERMINATIONS OF FOREIGN BANK OF-  
 23          FICES, AGENCIES, BRANCHES, AND SUBSIDIARIES BY THE  
 24          FEDERAL RESERVE SYSTEM.—

1 (1) IN GENERAL.—Section 7(e)(1) of the Inter-  
 2 national Banking Act of 1978 (12 U.S.C.  
 3 3105(e)(1)) is amended—

4 (A) by inserting “or the Comptroller of the  
 5 Currency” after “State bank supervisor”;

6 (B) by inserting “or a Federal branch or  
 7 agency” after “commercial lending company  
 8 subsidiary” the 1st place such term appears;  
 9 and

10 (C) in the last sentence, by inserting “or  
 11 a Federal branch or agency” after “commercial  
 12 lending company subsidiary”.

13 (2) TECHNICAL AND CONFORMING AMEND-  
 14 MENT.—Section 7(e) of the International Banking  
 15 Act of 1978 (12 U.S.C. 3105(e)) is amended—

16 (A) by striking paragraph (5); and

17 (B) by redesignating paragraphs (6) and  
 18 (7) as paragraphs (5) and (6), respectively.

19 **SEC. 536. DUPLICATE EXAMINATION OF FOREIGN BANKS.**

20 Section 7(c)(1) of the International Banking Act of  
 21 1978 (12 U.S.C. 3105(c)(1)) is amended—

22 (1) by adding after clause (ii) of subparagraph  
 23 (B) the following new clause:

24 “(iii) AVOIDANCE OF DUPLICATION.—

25 In exercising its authority under this para-

1 graph, the Board shall take all reasonable  
2 measures to reduce burden and avoid un-  
3 necessary duplication of examinations.”;

4 (2) by striking subparagraph (C) and inserting  
5 the following:

6 “(C) ON-SITE EXAMINATION.—Each Fed-  
7 eral branch or agency, and each State branch  
8 or agency, of a foreign bank shall be subject to  
9 on-site examination by a Federal banking agen-  
10 cy or State bank supervisor as frequently as  
11 would a national bank or State bank, respec-  
12 tively, by its appropriate Federal banking agen-  
13 cy.”; and

14 (3) by amending subparagraph (D) to read as  
15 follows:

16 “(D) COST OF EXAMINATIONS.—The cost  
17 of any examination undertaken pursuant to  
18 subparagraph (A) shall be assessed against and  
19 collected from the foreign bank or the foreign  
20 company that controls the foreign bank, as the  
21 case may be, but only to the same extent that  
22 fees are collected by the Board for examination  
23 of any State member insured bank.”.



1 **SEC. 537. SECOND MORTGAGES.**

2 (a) IN GENERAL.—Section 103(aa)(1) of the Truth  
3 in Lending Act (15 U.S.C. 1602(aa)(1)) is amended—

4 (1) by inserting “a subordinate mortgage on”  
5 after “secured by”; and

6 (2) by striking “a residential mortgage trans-  
7 action”.

8 (b) EFFECT ON PENDING CASES.—Any administra-  
9 tive enforcement proceeding or other action which—

10 (1) is pending on the date of the enactment of  
11 this Act; and

12 (2) is based on regulations in effect as of such  
13 date under the Truth in Lending Act with respect  
14 to high-cost residential mortgage transactions which  
15 are not subordinate mortgages,  
16 shall be dismissed as of such date.

17 **SEC. 538. STREAMLINING FDIC APPROVAL OF NEW STATE**  
18 **BANK POWERS.**

19 (a) IN GENERAL.—Section 24(a) of the Federal De-  
20 posit Insurance Act (12 U.S.C. 1831a(a)) is amended to  
21 read as follows:

22 “(a) ACTIVITIES GENERALLY.—

23 “(1) IN GENERAL.—An insured State bank may  
24 not engage as principal in any type of activity that  
25 is not permissible for a national bank unless—

1           “(A) the bank has given the Corporation  
2           written notice of the bank’s intention to engage  
3           in such activity at least 60 days before com-  
4           mencing to engage in the activity and within  
5           such 60-day period (or within the extended pe-  
6           riod provided under paragraph (2)) the Cor-  
7           poration has not disapproved the activity; and

8           “(B) the State bank is, and continues to  
9           be, in compliance with applicable capital stand-  
10          ards prescribed by the appropriate Federal  
11          banking agency.

12          “(2) EXTENSION OF PERIOD.—The Corporation  
13          may extend the 60-day period referred to in para-  
14          graph (1) for issuing a notice of disapproval with re-  
15          spect to any activity for an additional 30 days.

16          “(3) CONTENTS OF NOTICE.—Any notice sub-  
17          mitted by a State bank under paragraph (1)(A) shall  
18          contain such information as the Corporation may re-  
19          quire.

20          “(4) BASIS FOR DISAPPROVAL.—The Corpora-  
21          tion may disapprove an activity for a State bank  
22          under this subsection unless the Corporation deter-  
23          mines that the activity would pose no significant risk  
24          to the appropriate insurance fund.”.

1       (b) SUBSIDIARIES OF INSURED STATE BANKS.—Sec-  
2       tion 24(d)(1) of the Federal Deposit Insurance Act (12  
3       U.S.C. 1831a(d)(1)) is amended to read as follows:

4               “(1) ACTIVITIES GENERALLY.—

5               “(A) IN GENERAL.—A subsidiary of an in-  
6       sured State bank may not engage as principal  
7       in any type of activity that is not permissible  
8       for a subsidiary of a national bank unless—

9               “(i) the subsidiary has given the Cor-  
10       poration written notice of the subsidiary’s  
11       intention to engage in such activity at least  
12       60 days before commencing to engage in  
13       the activity and within such 60-day period  
14       (or within the extended period provided  
15       under paragraph (2)) the Corporation has  
16       not disapproved the activity; and

17               “(ii) the bank is, and continues to be,  
18       in compliance with applicable capital  
19       standards prescribed by the appropriate  
20       Federal banking agency.

21               “(B) EXTENSION OF PERIOD.—The Cor-  
22       poration may extend the 60-day period referred  
23       to in subparagraph (A) for issuing a notice of  
24       disapproval with respect to any activity for an  
25       additional 30 days.

1           “(C) CONTENTS OF NOTICE.—Any notice  
2           submitted by a subsidiary of an insured State  
3           bank under subparagraph (A)(i) shall contain  
4           such information as the Corporation may re-  
5           quire.

6           “(D) BASIS FOR DISAPPROVAL.—The Cor-  
7           poration may disapprove an activity for a sub-  
8           sidiary of an insured State bank under this  
9           paragraph unless the Corporation determines  
10          that the activity would pose no significant risk  
11          to the appropriate insurance fund.”.

12 **SEC. 539. REPEAL OF CALL REPORT ATTESTATION RE-**  
13 **QUIREMENT.**

14          Section 5211(a) of the Revised Statutes (12 U.S.C.  
15 161(a)) is amended by striking the 4th sentence.

16 **SEC. 540. AUTHORIZING BANK SERVICE COMPANIES TO OR-**  
17 **GANIZE AS LIMITED LIABILITY PARTNER-**  
18 **SHIPS.**

19          (a) AMENDMENT TO SHORT TITLE.—Section 1 of the  
20 Bank Service Corporation Act (12 U.S.C. 1861(a)) is  
21 amended by striking subsection (a) and inserting the fol-  
22 lowing new subsection:

23          “(a) SHORT TITLE.—This Act may be cited as the  
24 ‘Bank Service Company Act’.”;

1 (b) AMENDMENTS TO DEFINITIONS.—Section 1(b) of  
2 the Bank Service Corporation Act (12 U.S.C. 1861(b)) is  
3 amended—

4 (1) by striking paragraph (2) and inserting the  
5 following new paragraph:

6 “(2) the term ‘bank service company’ means—

7 “(A) any corporation—

8 “(i) which is organized to perform  
9 services authorized by this Act; and

10 “(ii) all of the capital stock of which  
11 is owned by 1 or more insured banks; and

12 “(B) any limited liability company—

13 “(i) which is organized to perform  
14 services authorized by this Act; and

15 “(ii) all of the members of which are  
16 1 or more insured banks.”;

17 (2) in paragraph (6)—

18 (A) by striking “corporation” and inserting  
19 “company”; and

20 (B) by striking “and” after the semicolon;

21 (3) by redesignating paragraph (7) as para-  
22 graph (8) and inserting after paragraph (6) the fol-  
23 lowing new paragraph:

24 “(7) the term ‘limited liability company’ means  
25 any company organized under the law of a State (as

1 defined in section 3 of the Federal Deposit Insur-  
2 ance Act) which provides that a member or manager  
3 of such company is not personally liable for a debt,  
4 obligation, or liability of the company solely by rea-  
5 son of being, or acting as, a member or manager of  
6 such company; and””; and

7 (4) in paragraph (8) (as so redesignated)—

8 (A) by striking “corporation” each place  
9 such term appears and inserting “company”;  
10 and

11 (B) by striking “capital stock” and insert-  
12 ing “equity”.

13 (c) AMENDMENTS TO SECTION 2.—Section 2 of the  
14 Bank Service Corporation Act (12 U.S.C. 1862) is amend-  
15 ed—

16 (1) by striking “corporation” and inserting  
17 “company”;

18 (2) by striking “corporations” and inserting  
19 “companies”; and

20 (3) in the heading for such section, by striking  
21 “CORPORATION” and inserting “COMPANY”.

22 (d) AMENDMENTS TO SECTION 3.—Section 3 of the  
23 Bank Service Corporation Act (12 U.S.C. 1863) is amend-  
24 ed—

1           (1) by striking “corporation” each place such  
2 term appears and inserting “company”; and

3           (2) in the heading for such section, by striking  
4 “CORPORATION” and inserting “COMPANY”.

5       (e) AMENDMENTS TO SECTION 4.—Section 4 of the  
6 Bank Service Corporation Act (12 U.S.C. 1864) is amend-  
7 ed—

8           (1) by striking “corporation” each place such  
9 term appears and inserting “company”;

10          (2) in subsection (b), by inserting “or mem-  
11 bers” after “shareholders” each place such term ap-  
12 pears;

13          (3) in subsections (c) and (d), by inserting “or  
14 member” after “shareholder” each place such term  
15 appears;

16          (4) in subsection (e)—

17               (A) by inserting “or members” after “na-  
18 tional bank and State bank shareholders”;

19               (B) by striking “its national bank share-  
20 holder or shareholders” and inserting “any  
21 shareholder or member of the company which is  
22 a national bank”;

23               (C) by striking “its State bank shareholder  
24 or shareholders” and inserting “any share-

1 holder or member of the company which is a  
2 State bank”;

3 (D) by striking “such State bank or  
4 banks” and inserting “any such State bank”;  
5 and

6 (E) by inserting “or members” after  
7 “State bank and national bank shareholders”;

8 (5) in subsection (f), by inserting “or providing  
9 insurance as principal, agent, or broker (except to  
10 the extent permitted under subparagraph (A) or (E)  
11 of section 4(c)(8) of the Financial Services Holding  
12 Company Act of 1995)” after “or deposit taking”;  
13 and

14 (6) in the heading for such section, by striking  
15 “CORPORATION” and inserting “COMPANY”.

16 (f) AMENDMENTS TO SECTION 5.—Section 5 of the  
17 Bank Service Corporation Act (12 U.S.C. 1865) is amend-  
18 ed—

19 (1) by striking “corporation” each place such  
20 term appears and inserting “company”; and

21 (2) in the heading for such section, by striking  
22 “CORPORATIONS” and inserting “COMPANIES”.

23 (g) AMENDMENTS TO SECTION 6.—Section 6 of the  
24 Bank Service Corporation Act (12 U.S.C. 1866) is amend-  
25 ed—



1 (1) by striking “corporation” each place such  
2 term appears and inserting “company”;

3 (2) by inserting “or is not a member of” after  
4 “does not own stock in”;

5 (3) by striking “the nonstockholding institu-  
6 tion” and inserting “such depository institution”;

7 (4) by inserting “or is a member of” after “that  
8 owns stock in”;

9 (5) in paragraphs (1) and (2), by inserting “or  
10 nonmember” after “nonstockholding”; and

11 (6) in the heading for such section by inserting  
12 “OR NONMEMBERS” after “NONSTOCKHOLDERS”.

13 (h) AMENDMENTS TO SECTION 7.—Section 7 of the  
14 Bank Service Corporation Act (12 U.S.C. 1867) is amend-  
15 ed—

16 (1) by striking “corporation” each place such  
17 term appears and inserting “company”;

18 (2) in subsection (a)—

19 (A) by inserting “or principal member”  
20 after “principal shareholder”; and

21 (B) by inserting “or member” after “other  
22 shareholder”; and

23 (3) in the heading for such section, by striking  
24 “CORPORATIONS” and inserting “COMPANIES”.

1 **SEC. 541. BANK INVESTMENTS IN EDGE ACT AND AGREE-**  
2 **MENT CORPORATIONS.**

3       The 10th undesignated paragraph of section 25A of  
4 the Federal Reserve Act (12 U.S.C. 618) is amended by  
5 striking the last sentence and inserting the following:  
6 “Any national bank may invest in the stock of any cor-  
7 poration organized under this section. The aggregate  
8 amount of stock held by any national bank in all corpora-  
9 tions engaged in business of the kind described in this sec-  
10 tion or section 25 shall not exceed an amount equal to  
11 10 percent of the capital and surplus of such bank unless  
12 the Board determines that the investment of an additional  
13 amount by the bank would not be unsafe or unsound and,  
14 in any case, shall not exceed an amount equal to 25 per-  
15 cent of the capital and surplus of such bank.”.

16 **SEC. 542. REPORT ON THE RECONCILIATION OF DIF-**  
17 **FERENCES BETWEEN REGULATORY AC-**  
18 **COUNTING PRINCIPLES AND GENERALLY AC-**  
19 **CEPTED ACCOUNTING PRINCIPLES.**

20       Before the end of the 180-day period beginning on  
21 the date of the enactment of this Act, each appropriate  
22 Federal banking agency (as defined in section 3 of the  
23 Federal Deposit Insurance Act) shall submit to the Com-  
24 mittee on Banking and Financial Services of the House  
25 of Representatives and the Committee on Banking, Hous-  
26 ing, and Urban Affairs of the Senate a report on the ac-

1 tions taken and to be taken by the agency to eliminate  
 2 or conform inconsistent or duplicative accounting and re-  
 3 porting requirements applicable to reports or statements  
 4 filed with any such agency by insured depository institu-  
 5 tions, as required by section 121 of the Federal Deposit  
 6 Insurance Corporation Improvement Act of 1991.

7 **SEC. 543. WAIVERS AUTHORIZED FOR RESIDENCY RE-**  
 8 **QUIREMENT FOR NATIONAL BANK DIREC-**  
 9 **TORS.**

10 The 1st sentence of section 5146 of the Revised Stat-  
 11 utes of the United States (12 U.S.C. 72) is amended by  
 12 inserting “(1) the Comptroller of the Currency may, in  
 13 the Comptroller’s discretion, waive the residency require-  
 14 ment in the case of any director of a national bank to  
 15 whom the requirement would otherwise apply, and (2)”  
 16 after “except that”.

17 **TITLE VI—LENDER LIABILITY**

18 **SEC. 601. LENDER LIABILITY.**

19 (a) PARTICIPATION IN MANAGEMENT.—

20 (1) IN GENERAL.—It is the sense of Congress  
 21 that a person who holds indicia of ownership pri-  
 22 marily to protect the person’s security interest in a  
 23 vessel or facility should not be considered to have  
 24 participated in management, as that term is used in  
 25 section 101(20) of the Comprehensive Environ-

1       mental Response, Compensation, and Liability Act  
2       of 1980 (42 U.S.C. 9601(20)), unless the person—

3               (A) exercises decisionmaking control over  
4       the borrower’s environmental compliance such  
5       that the person has undertaken responsibility  
6       for the hazardous substance handling or dis-  
7       posal practices of the vessel or facility; or

8               (B) exercises control at a level comparable  
9       to that of a manager of the borrower’s vessel or  
10       facility such that the person has assumed or  
11       manifested responsibility for the overall man-  
12       agement of the vessel or facility encompassing  
13       day-to-day decisionmaking over either environ-  
14       mental compliance or over the operational, as  
15       opposed to financial and administrative, aspects  
16       of the vessel or facility.

17       (2) OPERATIONAL ASPECTS DEFINED.—In  
18       paragraph (1)(B), the term “operational aspects”  
19       includes functions such as those of a facility or plant  
20       manager, operations manager, chief operating offi-  
21       cer, or chief executive officer.

22       (b) EXCLUSIONS.—It is further the sense of Congress  
23       that the term “participation in management” as used in  
24       such section 101(20) should not include any of the follow-  
25       ing:

1           (1) The mere capacity to influence, or ability to  
2           influence, or the unexercised right to control vessel  
3           or facility operations.

4           (2) Any act of a security interest holder to re-  
5           quire another person to comply with applicable laws  
6           or to respond lawfully to disposal of any hazardous  
7           substance.

8           (3) Conducting an act or failing to act prior to  
9           the time that a security interest is created in a ves-  
10          sel or facility.

11          (4) Holding a security interest in a vessel or fa-  
12          cility or abandoning or releasing such a security in-  
13          terest.

14          (5) Including in the terms of an extension of  
15          credit, or in a contract or security agreement relat-  
16          ing to such an extension, covenants, warranties, or  
17          other terms and conditions that relate to environ-  
18          mental compliance.

19          (6) Monitoring or enforcing the terms and con-  
20          ditions of the extension of credit or security interest.

21          (7) Monitoring or undertaking 1 or more in-  
22          spections of the vessel or facility.

23          (8) Under section 107(d) of the Comprehensive  
24          Environmental Response, Compensation, and Liabil-  
25          ity Act of 1980, or under the direction of an on-

1 scene coordinator, conducting a response action or  
2 other lawful means of addressing the release or  
3 threatened release of a hazardous substance in con-  
4 nection with the vessel or facility prior to, during, or  
5 upon the expiration of the term of the extension of  
6 credit.

7 (9) Providing financial or other advice or coun-  
8 seling in an effort to mitigate, prevent, or cure de-  
9 fault or diminution in the value of the vessel or facil-  
10 ity.

11 (10) Restructuring, renegotiating, or otherwise  
12 agreeing to alter the terms and conditions of the ex-  
13 tension of credit or security interest or exercising  
14 forbearance.

15 (11) Exercising other remedies that may be  
16 available under applicable law for the breach of any  
17 term or condition of the extension of credit or secu-  
18 rity agreement.

19 (12) Holding legal or equitable title acquired by  
20 a security interest holder through foreclosure or its  
21 equivalent primarily to protect a security interest  
22 provided that the holder undertakes to sell, re-lease,  
23 or otherwise divest the property in a reasonably ex-  
24 peditious manner on commercially reasonable terms,

1 taking into account market conditions and legal and  
2 regulatory requirements.

3 (c) SECURITY INTEREST.—It is further the sense of  
4 Congress that the term “security interest” as used in such  
5 section 101(20) should include rights under a mortgage,  
6 deed of trust, assignment, judgment, lien, pledge, security  
7 agreement, factoring agreement, lease, or any other right  
8 accruing to person to secure the repayment of money, the  
9 performance of a duty, or some other obligation.

10 (d) MISCELLANEOUS.—It is further the sense of the  
11 Congress that the potential Superfund liability of fidu-  
12 ciaries and the potential Resource Conservation and Re-  
13 covery Act liability of lenders and fiduciaries should be  
14 addressed by the Congress.

15 **TITLE VII—ANNUAL STUDY AND**  
16 **REPORT ON IMPACT ON**  
17 **LENDING TO SMALL BUSI-**  
18 **NESS**

19 **SEC. 701. ANNUAL STUDY AND REPORT.**

20 Not later than 12 months after the date of the en-  
21 actment of this Act, and annually thereafter, the Board  
22 of Governors of the Federal Reserve System, the Director  
23 of the Office of Thrift Supervision, the Comptroller of the  
24 Currency, and the Board of Directors of the Federal De-  
25 posit Insurance Corporation shall jointly conduct a study

1 and submit to the Congress a report on the extent to  
2 which this Act and the amendments made by this Act  
3 have, through reductions in regulatory burdens, resulted  
4 in increased lending to small businesses.



HR 2520 IH—2

HR 2520 IH—3

HR 2520 IH—4

HR 2520 IH—5

HR 2520 IH—6

HR 2520 IH—7

HR 2520 IH—8

HR 2520 IH—9

HR 2520 IH—10

HR 2520 IH—11

HR 2520 IH—12

HR 2520 IH—13

HR 2520 IH—14

HR 2520 IH—15

HR 2520 IH—16

HR 2520 IH—17

HR 2520 IH—18

HR 2520 IH—19

HR 2520 IH—20

HR 2520 IH—21



HR 2520 IH——22

HR 2520 IH——23

HR 2520 IH——24